

# Clean Water Act Metrics Plain Language Guide

## *State Review Framework Round 3*

This Plain Language Guide describes the elements and metrics EPA uses during a State Review Framework (SRF) review, and provides instructions on how to use the metrics to make appropriate findings. Reviewers should also refer to the CWA file review facility checklists and worksheets.

Data used in SRF reviews fall into three primary categories — data verification counts, data metrics, and file review metrics. These metrics provide an initial overview of agency performance.

**1. Data Verification** counts are to assure the completeness and accuracy of the universe and activities essential to establishing values for other data metrics. The annual data verification process requires states and EPA regions to review facility and activity counts in order to create accurate and complete frozen data. EPA expects agencies to correct any inaccuracies in ICIS-NPDES during the data verification process. Data counts, once verified, are frozen and utilized for public access purposes as well as for the SRF.

**2. Data Metrics** are metrics where counts are combined or compared in some way that is informative. EPA derives data metrics from frozen, verified data in ICIS-NPDES. Reviewers download data metrics from the Online Tracking Information System (OTIS) to get an initial overview of a state or local agency's performance. All data metrics fall into one of the following subcategories:

- **Goal metrics** provide a specific numeric goal and national average expressed as percentages. **EPA evaluates agencies against goals not averages.** These metrics include averages only to provide a sense of where an agency falls relative to others.
- **Review Indicator metrics** use national goals and/or averages to indicate when agencies diverge from national norms. When deviation from a national goal or average is significant, this does not always mean that a performance issue exists, just that the issue should be explored further. EPA should ensure that it pulls a sufficient sample of files to evaluate the issue during the file review (see the *File Selection Protocol* for additional guidance). EPA and the state or local agency should discuss the issue to determine if a problem exists.
- **Compliance Monitoring Strategy (CMS) metrics** relate to agency commitments in CMS Plans and provide for SRF findings based on agency-specific commitments rather than national goals. If a state does not have a CMS plan for a given CMS inspection area, regions will evaluate the state against the national inspection coverage goals for all sectors (majors and non-majors) set forth in the 2007 NPDES compliance monitoring strategy under metrics 4a1 – 4a10.

**3. File review metrics** are evaluated during the review of facility files (including information such as inspection reports, evaluations, enforcement responses and actions, and penalty documentation). File reviews provide a greater understanding of an agency's performance than data metrics alone. All file review metrics have national goals; however, unlike data metrics with goals, file metrics will not have a national average.

## Guidance References and Acronyms

The [SRF Documentation Page](#) on OTIS provides a full list of links to SRF guidance and policies.

**Year reviewed** refers to the federal fiscal year being reviewed, not the year in which the review is conducted. Ideally the year reviewed is the year preceding the year the SRF review is conducted. **Agency** refers to the state, local or federal agency which has the lead for compliance monitoring and enforcement within the state or other jurisdiction undergoing the SRF review.

A list of acronyms is provided as an attachment to this Plain Language Guide.

### CWA SRF Review Process

1. Coordination with water permits staff on integrated PQR/SRF review process if the region elects to conduct an integrated PQR/SRF review (optional)
2. Annual data verification
3. Annual data metric analysis
4. File Selection (coordination with PQR review)
5. Local agency or regional office inclusion
6. Discussion with HQ on review process (or discussion on a step-by-step basis, as chosen by the Region)
7. Entrance conference (coordination with PQR review if conducting an integrated review)
8. File Review
9. Exit conference
10. Report
11. Input into SRF Tracker

CWA reviews are no longer required to be integrated SRF/PQR reviews. If a region and state decide to conduct an integrated SRF/PQR review, this provides the opportunity for a more complete, in-depth picture of overall quality of state performance by identifying and addressing performance issues in CWA-NPDES permitting and enforcement programs. Regional and state water and enforcement personnel should coordinate early on schedule, timing, how integrated reviews will occur, and steps to coordinate findings and recommendations.

### Steps for Conducting an integrated SRF/PQR Review (optional):

- Coordination between SRF and PQR lead reviewers on schedules, file selection, and timing of the file reviews
- Joint discussions of files and potential issues
- Taking notes on common findings
- Coordination between leads for discussion during exit meeting
- Report write-up of common findings and executive summary
- Report finalization with state and EPA HQ

## Using Metrics to Determine Findings

**Goal** metrics always have numeric goals and stand alone as sufficient basis for a finding. For example, the goal for CWA metric 1b1 is 95% of completion of permit limit data entry requirements. To analyze performance under this metric, reviewers compare the percentage of permit limit data entered by the state to the 95% goal.

Based on this analysis, the reviewer would make a finding. All findings fall under one of these categories:

**Meets or Exceeds Expectations:** The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state performs above national program expectations.

**Area for State Attention:** An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.

**Area for State Improvement:** An activity, process, or policy that one or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

Whenever a metric indicates a major performance issue, EPA will write up a finding of Area for State Improvement, regardless of other metric values pertaining to a particular element. See the Round 3 Report Template for complete guidance on writing findings.

## **Using Other Metrics**

When metrics other than Goal metrics indicate problems, EPA should conduct the additional research necessary to determine the nature of the issue. These metrics provide additional information that is useful during file selection, and for gauging program health when compared to other metrics.

For example, CWA metric 8a2 is a Review Indicator metric that covers the percentage of major facilities in significant noncompliance (SNC). It is only with knowledge of the CWA universe information, deviations from a known national average, knowledge of the accuracy of SNC determinations, and/or other contextual information that a reviewer is able to judge whether the percent of major facilities in SNC presents a performance issue. Background information on the universe of facilities is available through the data verification counts and also on the [CWA dashboard](#).

## **Element and Metric Definitions**

### **Element 1 — Data**

EPA should use Element 1 to evaluate data accuracy and completeness. At the beginning of the review, the presumption is that the frozen data set has been verified by the state and EPA region and is accurate.

EPA will evaluate accuracy and completeness primarily through metric 2b, a file review metric that compares data in the OTIS Detailed Facility Report or ICIS-NPDES to information in facility files.

As reviewers conduct the entrance conference discussion with the state and as they conduct the file reviews, if EPA finds the value for a data metric to be inaccurate or incomplete to a significant

degree, the reviewer should address this under Element 1 with a finding of Area for State Attention or Area for State Improvement depending on the magnitude of the issue. In this finding, it would cite the data metric and provide both the reported and actual values. EPA regions may note significant discrepancies in results reported on universe information available on the CWA dashboard as well under this element.

To provide an example, data metric 5a shows that State X inspected 5 of its 20 major facilities. EPA believes that the state actually inspected all 20 but failed to enter the inspections into ICIS. EPA will need to confirm this during the entrance conference and file reviews. If the state inspected all 20 but failed to enter the inspections into ICIS, that would be an Area for State Improvement under Element 1 (Data). If the metric is accurate and the state only inspected 5 of 20, that would be an Area for State Improvement under Element 2 (Inspections).

Refer to [ECHO Data Entry Requirements](#) for minimum data requirements.

**Key metrics:** 2b, 1b1, and 1b2. Also consider data entry and/or accuracy issues pertaining to metrics 5a1, 5b1, 5b2, 7a1, 7d1, 7f1, 7g1, 8a2, and 10a1, if applicable. For example, if a reviewer finds that a state has adequate inspection coverage of majors under metric 5a1, but some or all of those inspections are not in EPA data systems, this should be noted as an Area of Attention or Area for State Improvement under Element 1. Conversely, if a state is not meeting minimum expectations for inspection coverage and state performance is well below the national goal, this should be noted in the report as an area for improvement under the Element 2 on inspections, not the Element 1 data element. The same guidance applies for data entry issues pertaining to metrics 7a1, 7d1, 7f1, 7g1, 8a2, and 10a1.

#### **Metric 2b — Files reviewed where data are accurately reflected in the national data system**

**Metric type:** File, Goal

**Goal:** 100% of data are complete and accurate

**What it measures:** Percentage of files reviewed where mandatory data are accurately reflected in the national data system. The numerator = number of files that accurately reflect mandatory data, denominator = number of files reviewed.

**Guidance:** Reviewers should compare data in the OTIS Detailed Facility Report (DFR) or ICIS-NPDES with information in the facility files to check that they accurately reflect activities such as inspection dates, inspection types, significant noncompliance (SNC) status, and enforcement responses. See the CWA File Review Facility Checklist, Part II for complete instructions. The following are examples of data to examine for accuracy and completeness under Metric 2b:

1. **Inspections:** Compare the inspection date listed in the inspection report with information in the DFR under “Compliance Monitoring History.”
2. **Violations:** Compare the information in the file to the facility’s significant noncompliance status, DMR violations, single event violations, permit schedule violations, and compliance schedule violations in the “Compliance Summary Data” and “Three Year Compliance Summary Data” sections of the DFR
3. **Informal Enforcement Action:** Check to ensure that all informal enforcement actions found in the file for the review year are in the DFR and compare date(s) in the file with

information in the “Notice of Violation or Informal Enforcement” section of the DFR

4. **Formal Enforcement Action:** Check to ensure that all formal enforcement actions found in the file for the review year are in the DFR and compare date(s) in the file with information under the “Formal Enforcement Actions (05 Year History)” section of the DFR
5. **Penalties:** Compare any penalty amounts in the file with information in the DFR under “Formal Enforcement Actions.”

If information in the files is missing from, or inaccurately entered into, the national database ICIS-NPDES, the data for that file is not complete or accurate.

Reviewers should also consider their knowledge of the agency’s program when conducting this analysis. For example, if the reviewer notices multiple compliance evaluation inspections identified in the DFR for a facility within one week's time, it is highly unlikely that the agency has actually conducted multiple CEIs in this timeframe. It is more likely that the later ones, if they are separate actions at all, are follow-up inspections.

**Applicable EPA policy/guidance:** [Permit Compliance System \(PCS\) Policy Statement](#), August 31, 1985, as amended in 2000; [ICIS Addendum to the Appendix of the 1985 Permit Compliance System Statement](#) from Michael M. Stahl, Director, Office of Compliance and James A. Hanlon, Director, Office of Wastewater Management, December 28, 2007 and the [ICIS Addendum Data Elements Attachment](#); [PCS Quality Assurance Guidance Manual](#), August 28, 1992.

### **Metrics 1b1 and 1b2 — Completeness of data entry on major permit limits and discharge monitoring reports (DMRs)**

**Metric type:** Data, Goal

**Goal:** 95%

**What it measures:** Completeness of information entered into the ICIS-NPDES and PCS databases on permit limits, and discharge monitoring reports.

- **1b1:** Permit limit data entry rates for major facilities
- **1b2:** DMR data entry rate for major facilities

**Guidance:** The national goal is 95% completion of required information. Reviewing permit limit and conditions data entry will inform the PQR and PQR/SRF sections of the report for those regions that choose to conduct an integrated review (optional).

**Applicable EPA policy/guidance:** The Code of Federal Regulations including [40CFR 123.26\(e\)\(1\)](#) and [40 CFR 123.26\(e\)\(4\)](#); [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; [ICIS Addendum to the Appendix of the 1985 Permit Compliance System Statement](#) from Michael M. Stahl, Director, Office of Compliance and James A. Hanlon, Director, Office of Wastewater Management, December 28, 2007 and the [ICIS Addendum Data Elements Attachment](#). [PCS Quality Assurance Guidance Manual](#), August 28, 1992.

## Element 2 — Inspections

Element 2 evaluates:

- Inspection coverage compared to CMS commitments
- Inspection report completeness and quality
- Inspection report timeliness

at majors and non-majors.

For the Clean Water Act, EPA's [\*NPDES Compliance Monitoring Strategy for the Core Program and Wet Weather Sources\*](#) (NPDES CMS, October 17, 2007) provides inspection frequency goals for the core NPDES program and for wet weather sources and available flexibilities that EPA and states may use in negotiating inspection commitments. Under the NPDES CMS, major facilities are generally to be inspected biennially. The CMS provides for triennial inspections if the site/facility is consistently in compliance and not contributing to impairments. For most sources other than majors, the CMS provides flexibility in how the goals are achieved (i.e., inspection type and selection of facilities), and generally calls for inspections every five years, with some source types even less frequently.

The NPDES CMS provides flexibility to regions and state agencies to address unique mixes of regulated entities and environmental conditions and to identify and document state-specific NPDES inspection frequency goals that differ from the frequencies recommended in the CMS. EPA's SRF reviews consider all of the flexibility and trade-offs built into the NPDES CMS plans for each state to provide a clear and accurate picture of the broad set of inspections completed by states. It also implements EPA's commitments set forth under the Clean Water Act Action Plan on the importance of addressing the most significant water pollution problems.

- Targeting enforcement to the most important water pollution problems;
- Ensuring states consistently implement Clean Water Act programs based on national policy and guidance; and
- Improving transparency and accountability by providing more complete, timely, and accurate information.

Inspection coverage at major facilities is tracked under data metric 5a1. Non-major inspection coverage at individually permitted facilities is analyzed under data metric 5b1, while non-major general permit inspection coverage is reviewed under data metric 5b2. Metrics 5a1, 5b1 and 5b2 are evaluated against state commitments in their CMS plans. State progress in meeting inspection commitments in CMS plans is also available under file metrics 4a1-4a10; these metrics primarily track non-major pretreatment, significant industrial user, and wet weather facilities.

**Key metrics:** 4a1, 4a2, 4a4, 4a5, 4a7, 4a8, 4a9, 4a10, 5a, 5b1, 5b2, 6a, and 6b.

### Applying the Non-major Facility Data to the SRF Review

Data for the CWA Non-Major Facility Data that appears in the Conducting a SRF Review guidance document and in Appendix D at the end of this guide is gathered as part of the data metric analysis (DMA) process (see the guidance on Conducting a SRF Review for additional details). Regions should review information available from ICIS-NPDES and contact their state to obtain complete information for the CMS Commitments Table. This information should be used to develop the explanation narrative and finding level selected under SRF Element 2 on inspections, and, where

relevant, finding levels selected for Element 3 on violations, Element 4 on enforcement actions, and Element 5 on penalties.

After collecting information for the Non-major Facilities Data Table completed, the SRF reviewers will rely on the data at several stages during the review process, including file selection, review of Element 2, and review of Elements 3-5. Review of the Non-major facility metrics, metrics 4a1-4a10, may also be relevant to the exit interview.

## **File Selection**

The [File Selection Protocol](#) describes the necessary steps including selecting an appropriate number of files with compliance monitoring and enforcement activity, ensuring geographic distribution across the state. Guidance on selecting common SRF/PQR files is also available in the File Selection Protocol for those regions that choose to complete an integrated PQR/SRF review (optional). EPA evaluates inspection and enforcement files where activity occurs during the review year as part of the State Review Framework evaluation process. As part of the file review preparation process, regions use the [OTIS File Selection Tool](#) available on the OTIS web site to randomly select a small set of files representative of a broad spectrum of the state's compliance monitoring and enforcement work during the review year.

Ensuring that the file selection list is representative of commitments made in the state's NPDES CMS plan is a key consideration for SRF CWA file reviews. Regions should review some files in the inspection commitment categories negotiated in the state specific CMS Plan. If the initial file selection list provided by the OTIS File Selection Tool does not generate file selection representative of priorities indicated in the state's CMS plan for wet weather and pretreatment universe facilities in the initial file selection download, add or substitute supplemental files to ensure adequate coverage of pretreatment, CSOs, SSOs, stormwater and CAFO facilities using the established file selection protocol to randomly select files for on-site review. The table completed by reviewers for each state can be used to facilitate this process. Reviewers should also coordinate with permit quality review teams to determine whether any files considered under permit quality reviews have sufficient compliance monitoring and enforcement results available to review under SRF elements 2-5 as described in the Conducting an Integrated NPDES Review guidance document for those regions conducting an integrated review (optional).

## **Metric 5a1 — Inspection coverage of NPDES majors**

**Metric type:** Data, Goal

**Goal:** 100% of state specific CMS Plan commitment

**What it measures:** Percentage of major NPDES facilities inspected. The numerator = the number of major NPDES facilities inspected; the denominator = the number of major NPDES facilities scheduled for inspection in the state specific CMS Plan for the review year.

**Guidance:** EPA's CMS goal for inspections of major NPDES permittees is a minimum of at least one comprehensive inspection every two years. Where OECA's Inspection Targeting Model is used to assist in screening and identifying inspection targets, the inspection frequency can be adjusted to one comprehensive inspection every three years for major NPDES facilities in compliance and not contributing to CWA §303(d) listings or §305(b) reporting unless there is an alternative CMS commitment. A state may have approval for an alternative CMS plan that has different frequencies than those listed above for that year. Reviewers are to compare the number of

state inspections of major NPDES facilities against the commitment in the state specific CMS Plan for the review year.

**Applicable EPA policy/guidance:** Memo, [Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy for the Core Program and Wet Weather Sources](#) from Granta Y. Nakayama, Assistant Administrator, October 17, 2007; [OECA National Program Manager Guidance](#).

**Metric 5b1 — Inspections coverage of NPDES *non-majors* with individual permits** (non-majors not included under metrics in 4a1 through 4a10)

**Metric type:** Data, Goal

**Goal:** 100% of the state specific CMS Plan commitment

**What it measures:** The percentage of NPDES individual non-major permittees inspected in review year. The numerator = the number of non-major individual permittees inspected; the denominator = the number of non-major individual permittees scheduled for inspection in the state specific CMS Plan for the review year.

**Guidance:** EPA's CMS goal for inspections of non-major facilities with individual NPDES permittees (traditional minor permittees) is an inspection at least once in each five-year permit term.

**Applicable EPA policy/guidance:** Memo, [Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy for the Core Program and Wet Weather Sources](#) from Granta Y. Nakayama, Assistant Administrator, October 17, 2007, [OECA National Program Manager Guidance](#). [Clean Water Act Action Plan](#) (Prior to February 22, 2010 known as the Clean Water Act Enforcement Action Plan), October 15, 2009.

**Metric 5b2 — Inspections coverage of NPDES *non-majors* with general permits** (non-majors not included under metrics in 4a1 through 4a10)

**Metric type:** Data, Goal

**Goal:** 100% of the state specific CMS Plan commitment

**What it measures:** Percentage of non-major NPDES facilities with general permits (except for those covered in metrics 4a1 through 4a10) inspected. The numerator = the number of non-major facilities with general permits inspected except for those covered in metrics 4a1 through 4a10; the denominator = the number of facilities with non-major general permits, except for those covered in metrics 4a1 through 4a10, committed to for inspection in the state specific CMS Plan for the review year.

**Guidance:** This metric is evaluated in the same manner as metric 5b1. The difference between the two is that the universe for 5b2 applies to permittees covered by a general permit except for those covered in metrics 4a1 through 4a10.

**Applicable EPA policy/guidance:** Memorandum, [Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy for the Core Program and Wet Weather](#)

[Sources](#)” from Granta Y. Nakayama, Assistant Administrator, October 17, 2007; [Clean Water Act Action Plan](#) (Prior to February 22, 2010 known as the Clean Water Act Enforcement Action Plan), October 15, 2009.

#### **Metric 4a — Percentage of planned inspections completed**

**Metric type:** Compliance Monitoring Strategy Metrics

**Goal:** 100% of state specific CMS Plan commitments

#### **What it measures:**

- 4a1: Number of pretreatment compliance inspections and audits at approved local pretreatment programs (Target: EPA’s CMS goal is two pretreatment compliance inspections and one audit at each approved local pretreatment program within five years. Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan for the review year, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for pretreatment facilities.)
- 4a2: EPA or state Significant Industrial User inspections for SIUs discharging to non-Authorized POTWs (Target: EPA’s CMS goal is one pretreatment inspection at each SIU annually. Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan for the review year, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for SIU facilities.)
- 4a4: Number of CSO inspections (Target: EPA’s CMS goal is one inspection of each CSO every three years for states with combined sewer systems. Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan for the review year, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for CSO facilities.)
- 4a5: Number of SSO inspections. (Target: EPA’s CMS goal is to schedule SSO inspections as needed based on information about overflow occurrences received directly by EPA. Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan for the review year, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for SSO facilities.)
- 4a7: Number of Phase I and II MS4 audits or inspections (Target: EPA’s CMS goal is one audit of each Phase I MS4 by Oct. 2012 and, thereafter, one within a year for MS4s with violations requiring enforcement orders, or one every five years for MS4s in compliance or with only minor violations. EPA’s CMS goal is one inspection or audit of each Phase II MS4 by Oct. 2014 and one every five years thereafter for MS4s in compliance or with only minor violations. Inspections should be done as needed, or as specified in the CMS plan.) Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan for the review year, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for Phase I and II MS4 facilities.
- 4a8: Number of industrial stormwater inspections (Target: EPA’s CMS goal is 10% of the state universe each year.) Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for industrial stormwater facilities.

- 4a9: Number of Phase I and Phase II construction stormwater inspections (Target: EPA's CMS goal is 10% of the state Phase I universe and 5% of state Phase II universe each year.) Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for Phase I and II construction stormwater facilities.
- 4a10: Number of inspections of large and medium concentrated animal feeding operations (CAFOs). (Target: EPA's CMS goal is one inspection of each large and medium NPDES-permitted CAFO every five years.) Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for large and medium CAFO facilities.

**Guidance:** Metrics 4a1-4a10 track progress in meeting inspection commitments per the negotiated state-specific Compliance Monitoring Strategy Plan (CMS Plan) in the review year based on the [\*NPDES Compliance Monitoring Strategy for the Core Program and Wet Weather Sources\*](#) (NPDES CMS, October 17, 2007). The numerator = number of inspections completed; denominator = number of inspections planned based on information in the state CMS Plan.

The information in the completed NPDES CMS metrics table will form the basis for determining whether the state meets, exceeds, or falls short of meeting commitments. Use the Metric 4a File Review Spreadsheet to calculate these metrics and the Non-major Facility Data Table in Appendix D. EPA will evaluate the percentage of inspection commitments met based on the commitments in the state's CMS plan for the review year. For each metric with an annual compliance monitoring goal, EPA review teams will compare the number of inspections or audits committed to in the state's CMS plan against information that appears in EPA data systems regarding inspections or audits conducted. Where inspections covered by the CMS do not have data entered in ICIS-NPDES, reviewers should gather and assess information from the state agency to review performance against the applicable CMS commitments. (If the state fails to enter system required inspection data in ICIS-NPDES, the reviewer should note this as a problem under Element 1 with a finding of Area for State Attention or Improvement.) For metrics that span more than one year, regions should consider whether the state met the commitment set forth in its CMS plan and how well this prepares the state to meet the cumulative, or multi-year, commitment. For additional details on accessing information for metrics 4a1-4a10, see Appendix C for specific instructions.

If a state does not have a state-specific CMS plan for a given CMS inspection area, regions will evaluate the state against the national inspection coverage goals set forth in the 2007 NPDES compliance monitoring strategy under metrics 4a1 – 4a10.

Reviewers should pay particular attention to targeting the most significant sources of surface water pollution. Reviewers may wish to ask about the rationale for any approach to inspection coverage that appears to omit inspections in a sector with a known poor compliance contributing to water quality impairment. SRF reviewers may access Water Facility Search information on impaired waters. Specific instructions for analyzing information on facilities located in impaired waters is available in Appendix E.

The SRF review will then evaluate the violations identified through those inspections, enforcement actions, and associated penalties in areas where states commit to conduct pretreatment, SIU, and wet weather inspections as part of the file review process to ensure that states take action to address violations found at non-major facilities covered under the NPDES CMS policy. EPA selected these 8 metrics in order to look beyond major facilities and assess performance in inspection

frequency for pretreatment, SIU, and wet weather sources, which are non-majors and, therefore, not subject to current EPA reporting requirements.

**Applicable EPA policy/guidance:** Memorandum, [\*Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy for the Core Program and Wet Weather Sources\*](#) from Granta Y. Nakayama, Assistant Administrator, October 17, 2007; [\*OECA National Program Manager Guidance\*](#); [\*Clean Water Act Action Plan\*](#) (Prior to February 22, 2010 known as the Clean Water Act Enforcement Action Plan), October 15, 2009.

## **Metric 6a — Inspection reports complete and sufficient to determine compliance at the facility**

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** Percentage of inspection reports reviewed that provide sufficient documentation to determine compliance. This metric describes the quality of inspection reports. Numerator = number of inspection reports with sufficient documentation to determine compliance; denominator = total number of inspection reports reviewed.

**Guidance:** Inspection reports should be reviewed to see if they provide the information requested in the NPDES Compliance Inspection Manual, Appendix J, Water Compliance Inspection Report (EPA Form 3560-3 (Rev 4-06)) on pp. 600-601. In addition, basic information that should be collected in inspection reports is discussed in Chapter 2 & 3 of the NPDES Compliance Inspection Manual which links permit and/or regulatory requirements to observations made by the inspector regarding noncompliance. Reports should generally include a narrative describing the facility, its procedures, documentation such as reports, records, photographs, maps, conditions observed, statements by facility personnel, and checklists. See the CWA File Review Facility Checklist for additional details on inspection report quality and completeness. For each inspection report found in reviewed files, reviewers should complete CWA Inspection Report Checklist in the “CWA Facility Checklist” on p.3.

All essential report components should be present and properly documented. If certain components are routinely missing, these should be mentioned in the SRF report.

Agencies will have their own methods for completing inspection reports. EPA should discuss this with the agency at the beginning of the review to determine which parts of the agency’s inspection report (particularly for Compliance Evaluation Inspections (CEIs)) are consistent with EPA expectations. EPA reviews the quality of the written inspection reports only under this metric; this metric is not an evaluation of the quality of field inspections.

**Applicable EPA Policy/Guidance:** [\*NPDES Compliance Inspection Manual\*](#), EPA Report # 305-X-4-001, June 2004.

## **Metric 6b — Timeliness of inspection report completion**

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** Percentage of inspection reports reviewed that are timely. The numerator = number of inspection reports completed within recommended timeframe; denominator = total number of inspection reports reviewed.

**Guidance:** Reviewers should evaluate timeliness of state inspection reports against timeliness goals in state inspection procedures. In the absence of state guidelines, reviewers should evaluate timeliness against EPA guidelines. The [National Pollutant Discharge Elimination System Enforcement Management System](#), Chapter 5, Section A provides guidance on timeliness of inspection reports. Specifically, timely inspection reports are completed within 45 days of the date of inspection for sampling inspections, and completed within 30 days for non-sampling types of inspections.

EPA reviews the timeliness of the written inspection reports only under this metric; this metric is not an evaluation of the quality of field inspection reports (see metric 6a). The number of inspection reports reviewed is dependent upon the size of the regulated universe of facilities in the state; see the File Selection Protocol for details on selecting the appropriate number of files to evaluate under this metric.

Reviewers should record the length of time it took to complete each report in the File Review Checklist so they can compute average timeframes.

If an agency does not have a timeliness standard, EPA should use the SRF as an opportunity to encourage the Agency to adopt one, particularly if it is not consistently completing reports in less than 30 to 45 days, and especially if this creates delays in other aspects of the program, such as violation determination or enforcement.

**Applicable EPA policy/guidance:** [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#); Memo, [Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy for the Core Program and Wet Weather Sources](#) from Granta Y. Nakayama, Assistant Administrator, October 17, 2007; [Clean Water Act Action Plan](#) (Prior to February 22, 2010 known as the Clean Water Act Enforcement Action Plan), October 15, 2009; US EPA [Compliance Inspection Manual](#), 2004; [Clean Water Act Inspector Training](#).

## Element 3 — Violations

Under this element, EPA evaluates the accuracy of the agency's violation and compliance determinations, and the accuracy and timeliness of its significant non-compliance determinations.

Reviewers will evaluate data metrics 7a1, 7d1, 7f1, 7g1, and 8a2 during the data metric analysis. If the reviewer finds that violation or SNC rates are lower than the national average, he or she may want to include additional inspections or violations in the file selection process in order to determine the accuracy of violation and SNC determination.

File metric 7e covers the accuracy of compliance determinations made from inspections, and file metrics 8b1 and 8c cover the appropriateness of SNC determinations. These metrics will generally form the basis for findings under this element.

**Key metrics:** 7a1, 7d1, 7e, 7f1, 7g1, 8a2, 8b1, and 8c

Under Element 3, reviewers should pay extra attention to whether identification of alleged violations occurs accurately in areas with impaired waters listed on agency CWA Section § 303(d) lists or §305(b) reports, as well as SNC violations occurring in areas designated as high-quality waters by the agency per recommendations in the CWA Compliance Monitoring Strategy and the CWA Action Plan.

Information on water quality impairments is available in Detailed Facility Reports in the OTIS database. To access this information, click on the numeric performance result listed for any of the frozen data metrics under Element 3 within the OTIS database. Clicking on the numeric result for any Element 3 SRF data metric will generate a list of permit ids with violations identified. Click on each permit id in the "ID number" column to view the impairment information located in the "Environmental Conditions" section of the Detailed Facility Report that displays the receiving waters the facility discharges to along with any impaired waters identified in the database. Additional information on specific water quality impairments is also available by clicking on the blue "W" icon in the "Environmental Conditions" section of the OTIS Detailed Facility Reports. If conducting integrated reviews, reviewers should pay particular attention to whether permit limits in impaired waters, or in "high quality" waters, are protective.

Reports should factor in findings from Non-major Facility Data tables listed in Appendix D that affect violation identification in enforcement programs. Reviewers should request from the state or local agency information on violations identified as a result of inspections of non-major facilities when this information is not available through ICIS-NPDES. States are required to provide to EPA any information requested on NPDES program implementation per 40 CFR 123.45. If the state or local agency does not provide this information, reviewers should note the missing information as an issue that could not be fully evaluated in the final report, and that needs to be addressed.

If an integrated SRF/PQR review is elected, reviewers should also factor in findings from the PQR that might affect violation identification. Examples of permit quality findings that may impact violation identification appear in the Writing an SRF Report guidance document for those regions conducting an integrated SRF/PQR review (optional). Examples include, but are not limited to, permits that do not:

- include all applicable discharge limits,
- identify all pollutants being discharged, or

- include all discharge points at a facility so that compliance can be determined.

## **File Reviews**

The SRF considers inspections, violations, enforcement actions; the timeliness and appropriateness of enforcement action; and documentation of penalty calculation, assessment and collection (see SRF Elements 3-5). As part of file reviews for Elements 3-5, regions should review files for wet weather and pretreatment facilities that the state inspected in accordance with its NPDES CMS plan to ensure that inspections and enforcement activities at these facilities are well implemented. For non-major permittees, Category 1 violations should be considered requiring enforcement follow-up. Specific metrics and calculation methodology for measures for major facilities utilized under Elements 3-5 are described in detail in this Clean Water Act Plain Language Guidance and accompanying file review spreadsheets on the following [OTIS web site](#). As part of the review of regional files selection lists, EPA will review the representativeness of files selected to ensure NPDES CMS commitments are adequately factored into the review process.

### **Metric 7a1 — Number of major facilities with single-event violations reported to the national data system (non-automated violations arising from inspections and compliance monitoring)**

**Metric type:** Data Verification

**What it measures:** Assesses whether single-event violations (SEVs) determined by means other than automated discharge-to-limits comparisons are reported and tracked in ICIS-NPDES.

- **7a1:** Number of *major* NPDES facilities with single-event violations

**Guidance:** Where file reviews show that SEVs were either not accurately identified during inspections of major NPDES facilities based on the information in the inspection report, or reported to ICIS-NPDES, this should be noted, and an appropriate recommendation made. It is particularly important that SEVs that are SNC are properly identified and reported and this should be accounted for when making a recommendation. It is appropriate to consider or cross reference the findings of metric 8b1 when developing the recommendation for this metric.

**Applicable EPA policy/guidance:** [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; [Memorandum Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations](#), from Mark Pollins, Director, Water Enforcement Division and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008; [Final Single Event Violation Data Entry Guide for the Permit Compliance System \(PCS\)](#), May 22, 2006; [NPDES Compliance Inspection Manual](#), EPA Report #: 305-X-4-001, June 2004.

### **Metric 7d1 — Major facilities in noncompliance**

**Metric type:** Review Indicator

**What it measures:** The percentage of major facilities with DMR violations reported to the national database.

**Guidance:** Review the percent of major facilities in noncompliance and compare this percentage to the national average and prior year trends for the state. If noncompliance is significantly higher, or is high and remains high, the reviewer should consider selecting additional files with violations and

enforcement actions to ensure that timely and appropriate enforcement occurs in response to violations. If levels are well below the national average, reviewers may also want to look into what is behind the lower numbers – either higher levels of compliance or failure to identify or report violations. Reviewers may also wish to consult the national average as additional context in interpreting noncompliance at major facilities in a given state. For example, the FY 2012 national average for noncompliance at major facilities is 60.3%. If state noncompliance at majors is significantly above the national average, timely and appropriate action may not be promoting return to compliance, or the state may not be identifying violations accurately during inspections or in inspection reports.

**Applicable EPA policy/guidance:** [\*The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)\*](#), 1989; Memorandum [\*Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations\*](#) from Mark Pollins, Director, Water Enforcement Division, and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008; [\*Final Single Event Violation Data Entry Guide for the Permit Compliance System \(PCS\)\*](#), May 22, 2006; [\*NPDES Compliance Inspection Manual\*](#), EPA Report #: 305-X-4-001, June 2004. [\*Permit Compliance System \(PCS\) Policy Statement\*](#), August 31, 1985, as amended in 2000; [\*ICIS Addendum to the Appendix of the 1985 Permit Compliance System Statement\*](#) from Michael M. Stahl, Director, Office of Compliance and James A. Hanlon, Director, Office of Wastewater Management, December 28, 2007 and the [\*ICIS Addendum Data Elements Attachment\*](#).

## **Metric 7e —Accuracy of compliance determinations**

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** Percentage of inspection reports reviewed with sufficient documentation leading to an accurate compliance determination. The numerator = number of inspection reports with sufficient documentation leading to an accurate compliance determination; denominator = total number of inspection reports reviewed.

**Guidance:** This metric assesses whether violations — either significant noncompliance or single event violations — were accurately identified based on the documentation contained in facility files. For example, violations identified in the enforcement action should be documented in facility files as observations noted while on-site at the facility. This information may be in the inspection report narrative, and/or listed in the single event violation (SEV) section of NPDES Water Compliance Inspection Report Form 3560-3. Note that if the compliance determination is not made in the inspection report, then it should be documented elsewhere in the file.

Agencies will have their own methods for completing inspection reports. EPA should discuss this with the agency at the beginning of the review to determine if the agency's inspection reports, particularly for Compliance Evaluation Inspections (CEIs)), are consistent with EPA expectations.

**Applicable EPA policy/guidance:** [\*The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)\*](#), 1989; Memorandum. [\*Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations\*](#) from Mark Pollins, Director, Water Enforcement Division, and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008; [\*Final Single Event Violation Data Entry Guide for the Permit Compliance System \(PCS\)\*](#), May 22, 2006. [\*NPDES Compliance Inspection\*](#)

[Manual](#), EPA Report #: 305-X-4-001, June 2004.

### **Metric 7f1 — Non-major facilities in Category 1 noncompliance**

**Metric type:** Data Verification

**What it measures:** The number of non-major facilities in Category 1 noncompliance (more serious) violations [i.e. as defined in [40CFR123.45\(a\)\(2\)\(B\)\(ii\)](#)]. This metric works in conjunction with the ANCR process which is designed to obtain accurate counts of non-major facilities in noncompliance.

**Guidance:** Review the number of non-major facilities in Category 1 noncompliance and compare this to the universe of non-major facilities. The universe of non-major facilities is available as the denominator for metrics 5b1 and 5b2 in the Universe column of the state's data metric analysis. If Category 1 noncompliance is higher or significantly lower than the reported national average non-compliance at major facilities reported under Metric 7d, this information should inform the number of files selected for non-major facilities. Reviewers may also wish to compare non-compliance at non-major facilities to information available on the [ECHO state dashboard](#).

**Applicable EPA policy/guidance:** [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; [Clean Water Act Trends Map and Annual Noncompliance Report](#).

### **Metric 7g1 — Non-major NPDES facilities in Category 2 noncompliance**

**Metric type:** Data Verification

**What it measures:** The number of non-major facilities in Category 2 noncompliance (i.e., less serious violations) [i.e. as defined by [40CFR123.45\(a\)\(2\)\(B\)\(iii\)](#)]. This metric works in conjunction with the ANCR process which is designed to obtain accurate counts of non-major facilities in noncompliance.

**Guidance:** Review the number of non-major facilities in Category 2 noncompliance and compare this to the universe of non-major facilities. The universe of non-major facilities is available as the denominator for metrics 5b1 and 5b2 in the Universe column of the state's data metric analysis. If Category 2 noncompliance is higher or significantly lower than the reported national average non-compliance at major facilities reported under Metric 7d, this information should inform the number of files selected for non-major facilities. Reviewers may also wish to compare non-compliance at non-major facilities to information available on the [ECHO state dashboard](#).

**Applicable EPA policy/guidance:** The Code of Federal Regulations including [40 CFR 123.45](#); [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989, [Clean Water Act Trends and Annual Noncompliance Report](#).

### **Metric 8a2 — Percentage of active major facilities in SNC during the reporting year**

**Metric type:** Review Indicator

This metric is a key indicator of EPA's commitment to ensure agencies identify the most significant violations in terms of their environmental and human health impacts per the goals of the

Clean Water Act Action Plan to target enforcement actions toward the most important water pollution problems.

**What it measures:** Percentage of major NPDES facilities in significant non-compliance during the review year. The numerator = the number of majors in SNC during review year; denominator = total number of majors.

**Guidance:** Review the percent of active major facilities in significant noncompliance and compare this percentage to the national average and prior year trends for the state. If significant noncompliance is significantly higher or lower than the national average, or is high and remains high, the reviewer should consider selecting additional files with violations and enforcement actions to ensure that timely and appropriate enforcement occurs in response to violations. For example, the FY 2012 national average for significant noncompliance at major facilities is 20.6%. If state significant noncompliance at majors is significantly above the national average, timely and appropriate action may not be promoting return to compliance. If the percentage of active major facilities in SNC is significantly lower than the national average, reviewers should carefully review files for inspected facilities without violations, and those with non-SNC violations, to determine whether SNC determinations are accurately identified in files reviewed.

Reviewers should pay extra attention to the accuracy of significant noncompliance (SNC) identification in areas with impaired waters listed on agency CWA Section 303(d) lists and 305(b) reports and/or areas designated as high-quality waters by the agency per the CWA Compliance Monitoring Strategy and the CWA Action Plan. This information is available by clicking on the hyperlinked result number for metric 8a2 in the data metric analysis available in OTIS and downloading the list of facilities in a state identified as active major facilities in significant noncompliance during the reporting year. After downloading the specific facilities listed as majors in significant noncompliance in the review year, enter this list of permit ids in the OTIS Water Facility Search Permit Id field. Select Category 4 or 5 Impaired from the Watershed Quality Criteria dropdown menu of OTIS Water Facility Search reports. Click the Search button to run the report to see how many permit ids listed under metric 8a2 are in impaired waters. If a significant number of facilities identified as majors in SNC under metric 8a2 are in impaired waters, reviewers should carefully examine whether timely and appropriate action is being taken to address significant non-compliance in areas with impaired waters during file reviews. For additional details on obtaining information on facilities in impaired waters, see Appendix E.

**Applicable EPA policy/guidance:** *Applicable EPA policy/guidance: Guidance for Preparation of Quarterly and Semi-Annual Noncompliance Reports (Per Section 123.45, Code of Federal Regulations, Title 40) March 13, 1986; [Final Single Event Violation Data Entry Guide for the Permit Compliance System \(PCS\)](#), May 22, 2006; [Interim Significant Non- Compliance Policy for Clean Water Act Violations Associated with CSOs, SSOs, CAFOs, and Storm Water Point Sources \(Interim Wet Weather SNC Policy\)](#) issued to EPA Regions only on October 23, 2007; Memo [ICIS Addendum to the Appendix of the 1985 PCS Policy Statement](#) from Michael M Stahl, Director, Office of Compliance and James A Hanlon, Director, Office of Wastewater Management, December 7, 2007; [PCS Quality Assurance Guidance Manual](#), August 28, 1992. [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; Memorandum. [Revision of NPDES Significant Noncompliance \(SNC\) Criteria to Address Violations of Non-Monthly Average Limits](#) issued to Water Management Division Directions and Regional Counsels from Steven A. Herman, 1995.*

**Metric 8b1 — Single-event violation(s) accurately identified as SNC or non-SNC at major facilities**

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** The percentage of SEVs accurately identified as SNC or non-SNC by the agency at major facilities. Numerator = number of SEVs accurately identified as SNC or non-SNC by the agency at major facilities; denominator = number of SEVs identified in the files reviewed at major facilities.

**Guidance:** To assess this metric:

1. List the SEVs identified by EPA in the files reviewed.
2. Of the SEVs identified by EPA, list the SEVs accurately identified as SNC.
3. Of the list of SEVs identified by EPA, list the SEVs not identified as SNC which meet SNC criteria

The definition of SNC for agencies applies to major NPDES permittees only. SNC definition criteria included in the NPDES EMS in Chapter 7, Part B on pp. 240-251 include:

- violations of permits, administrative orders, and judicial order requirements

Examples of single event violations in significant noncompliance include: passthrough, effluent violation, unauthorized bypass, and unpermitted discharges with water quality or human health impacts as described in the Single Event Violation Data Entry Guide. SEV violations with Reportable Noncompliance (RNC) detection codes of B, G, I, or J trigger SNC status in ICIS for SEVs associated with passthrough, effluent violation, unauthorized bypass, and unpermitted discharges. See the Single Event Violation Data Entry Guide Attachment 2 for information on RNC Detection Codes on pp. 28-30 for additional details.

It is appropriate to consider or cross reference the findings of metric 7a1 when developing the recommendation for this metric.

**Applicable EPA policy/guidance:** [National Pollutant Discharge Elimination System Enforcement Management System \(NPDES EMS\)](#), Chapter 7, Quarterly Noncompliance Report Guidance; *Guidance for Preparation of Quarterly and Semi-Annual Noncompliance Reports* (40 CFR 123.45) March 13, 1986; [Final Single Event Violation Data Entry Guide for the Permit Compliance System \(PCS\)](#), May 22, 2006; [Interim Significant Non-Compliance Policy for Clean Water Act Violations Associated with CSOs, SSOs, CAFOs, and Storm Water Point Sources \(Interim Wet Weather SNC Policy\)](#) issued to EPA Regions only on October 23, 2007; [ICIS Addendum to the Appendix of the 1985 Permit Compliance System Statement](#) from Michael M. Stahl, Director, Office of Compliance and James A. Hanlon, Director, Office of Wastewater Management, December 28, 2007 and the [ICIS Addendum Data Elements Attachment](#); [PCS Quality Assurance Guidance Manual](#), August 28, 1992.

**Metric 8c — Percentage of SEVs identified as SNC reported timely at major facilities**

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** Percentage of SEVs accurately identified as SNC that were reported timely at major facilities. The numerator = number of SEVs accurately identified as SNC that were reported in a timely manner at major facilities; denominator = total number of SEVs accurately identified as SNC at major facilities.

**Guidance:** This metric pertains only to major facilities. Reviewers should assess information in facility files to determine whether SEVs accurately identified as SNC were reported to ICIS-NPDES in the DFR.

This metric compares the date of noncompliance determination as SNC with the date the information was recorded in the OTIS Detailed Facility Report for the facility. Where reviewers find instances of a noncompliance event not identified by the agency, those instances of SNC should not be counted as timely reported SNCs in the numerator of metric 8c.

**Applicable EPA policy/guidance:** Chapter 7 of the [Enforcement Management System, Quarterly Noncompliance Report Guidance](#); *Guidance for Preparation of Quarterly and Semi-Annual Noncompliance Reports* ([40 CFR 123.45](#)); [Final Single Event Violation Data Entry Guide for the Permit Compliance System \(PCS\)](#), May 22, 2006; [Interim Significant Non-Compliance Policy for Clean Water Act Violations Associated with CSOs, SSOs, CAFOs, and Storm Water Point Sources \(Interim Wet Weather SNC Policy\)](#) issued to EPA Regions only on October 23, 2007; [ICIS Addendum to the Appendix of the 1985 Permit Compliance System Statement](#) from Michael M. Stahl, Director, Office of Compliance and James A. Hanlon, Director, Office of Wastewater Management, December 28, 2007 and the [ICIS Addendum Data Elements Attachment](#).

## Element 4 — Enforcement

Reviewers will use Element 4 to determine the agency's effectiveness in taking timely and appropriate enforcement, and using enforcement to return facilities to compliance.

This information is helpful when selecting facility files to review. If violation and SNC rates are high, but enforcement is low, reviewers may wish to select extra facilities with SNC and non-SNC violations to determine why enforcement activity is low. If enforcement numbers are high, reviewers should review facility files with enforcement to determine if those actions were appropriate and return facilities to compliance.

Reviewers should use metrics 9a (enforcement that returns sites to compliance), 10a1 (timely action taken at major facilities), and 10b (timely and appropriate enforcement action taken in files reviewed), to create findings under this element.

Reports should factor in findings from the Non-major NPDES Facility Data tables that affect timely and appropriate enforcement. For those Regions conducting integrated PQR/SRF reviews, those findings that pertain to permits that influence timely and appropriate enforcement should also be noted here (optional). Examples of permit quality findings that may impact enforcement actions appear in the Writing an SRF Report guidance document. Examples include but are not limited to:

- Facilities incorrectly characterized in state permits that have waste streams that are not being properly managed with permits that are not protective of state water quality standards
- Permits that do not have limits for all pollutants released by the facility

### File Reviews

As part of file reviews, regions should review files for wet weather, significant industrial user, and pretreatment facilities that the state inspected in accordance with its NPDES CMS plan to ensure that enforcement activities at these facilities promote return to compliance under metric 9a, and are timely and appropriate under metric 10b. As part of the review of regional files selection lists, EPA will review the representativeness of files selected to ensure NPDES CMS commitments at non-major facilities, including pretreatment, SIU, and wet weather facilities, are adequately factored into the review process.

**Key metrics:** 9a, 10a1, 10b

**Additional context:** 7a1, 7f1, 7g1, 8a2. High noncompliance reported under metrics 7a1, 7f1, 7g1, and 8a2 may indicate a lack of timely and appropriate enforcement. Reviewers should carefully examine whether timely and appropriate enforcement is not occurring at facilities with violations reported under metrics 7a1, 7f1, 7g1, and 8a2 by comparing permit ids listed in drilldown data for these metrics to those with timely and appropriate enforcement. If a significant number of facilities appear to have no timely and appropriate enforcement in response to long-standing noncompliance reported, this should be noted as an Area for Improvement finding under Element 4.

**Metric 9a — Percentage of enforcement responses that returned, or will return, a source in violation to compliance**

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** Percentage of enforcement responses in reviewed files that returned, or will return, a source in violation to compliance. Reviewers should evaluate all enforcement responses found in selected files regardless of the type of violation. The violations addressed by reviewed enforcement responses may be SNC or non-SNC violations. The numerator = number of enforcement responses that returned or will return the source to compliance; denominator = total number of enforcement responses in reviewed files.

**Guidance:** Actions that promote return to compliance generally include:

- injunctive relief,
- documentation of return to compliance, and
- an enforceable requirement that compliance be achieved by a date certain

for significant noncompliance at major facilities.

Non-major facilities, and facilities with non-SNC violations, should also receive an enforcement response (either informal or formal enforcement) that results in the violator returning to compliance, particularly in areas where minor facilities have a major impact on water quality. Non-SNC violations, and violations at non-major facilities should generally receive an enforcement response in the range of options noted in the Enforcement Response Guide of the NPDES Enforcement Management System Guidance, see especially Chapter 2 pp. 55-68 for the range of recommended responses to potential violations. Information on facilities in impaired waters is accessible by entering permit ids in an OTIS Water Facility Search report and selecting Category 4 and 5 Impaired from the Water Quality Criteria dropdown menu. For additional details on examining files in file selection lists in impaired waters, see instructions in Appendix E. Administrative penalty orders (APOs) count as formal enforcement actions, but return to compliance at a facility that has received an APO should be documented in the file for the action to be deemed as returning the facility to compliance.

**Applicable EPA policy/guidance:** [\*The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)\*](#), 1989; [\*Memo“Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations”\*](#) from Mark Pollins, Director, Water Enforcement Division and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008.

**Metric 10a1 — Percentage of major NPDES facilities with formal enforcement action taken in a timely manner**

**Metric type:** Data, Goal

**Goal:** 98%

**What it measures:** The percentage of major facilities in SNC during the review year with formal enforcement action taken in a timely manner during the review year that address SNC violations at major facilities.

Numerator = the total number of major NPDES facilities with timely formal enforcement action in the review year for any of the 4 violation categories listed in the four bullets below.

Denominator = facilities with two or more consecutive quarters of SNC non-effluent violations or SNC effluent violations at:

- the same pipe and parameter reported in the Quarterly Noncompliance Report (QNCR), or
- facilities with significant effluent violations in 3 consecutive quarters for violations of the same pipe and parameter in each quarter, or
- facilities that did not submit discharge monitoring reports (DMRs) listed in the QNCR in 2 consecutive quarters, or
- facilities with compliance schedule violations in 2 consecutive quarters with open compliance schedule violations at any time in the fiscal year

**Guidance:** Per the guidance in the NPDES EMS, formal enforcement should occur at facilities in significant non-compliance prior to the second official QNCR unless there is supportable justification for an alternative action, such as an informal enforcement action, permit modification, or the facility returns to compliance.

The Watch List is the list of major NPDES facilities in SNC for two consecutive quarters or more, involving the same discharge pipe, the same pollutant, and same type of violation with no formal enforcement action taken. EPA's goal for the number of facilities on the Watch List is 2% or less of the universe of major NPDES permittees.

**Applicable EPA policy/guidance:** [\*The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)\*](#), 1989; [\*Memo "Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations"\*](#) from Mark Pollins, Director, Water Enforcement Division and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008.; *Guidance for Preparation of Quarterly and Semi-Annual Noncompliance Reports* (Per Section 123.45, Code of Federal Regulations, Title 40) March 13, 1986; [\*Revision of NPDES Significant Noncompliance \(SNC\) Criteria to Address Violations of Non-Monthly Average Limits\*](#) issued to Water Management Division Directions and Regional Counsels from Steven A. Herman, 1995.

**Metric 10b — Enforcement responses reviewed that address violations in an appropriate manner**

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** The percentage of enforcement actions taken in an appropriate manner. The numerator = the number of appropriate enforcement responses in reviewed files taken to address violations; denominator = the number of violations identified by the reviewer.

Note: The denominator for this metric should include all violations regardless of whether the agency accurately identifies the violation.

**Guidance:** All SNC violations should be responded to in an appropriate manner with an enforcement response that reflects the nature and severity of the violation. Unless there is supportable justification, the enforcement response should be a formal action which returns to compliance by permittee to return to compliance by date certain.

When formal enforcement action is not taken, there should be a written record that clearly justifies

why the alternative action (*e.g.*, informal enforcement action or permit modification) is more appropriate.

Non-major facilities with Category 1 or 2 violations, and facilities with non-SNC violations, should also receive an enforcement response (either informal or formal enforcement ) that results in the violator returning to compliance, particularly in areas where minor facilities have a major impact on water quality. Non-SNC violations, and violations at non-major facilities should generally receive an enforcement response in the range of options noted in the Enforcement Response Guide of the NPDES Enforcement Management System Guidance, see especially Chapter 2 pp. 55-68 for the range of recommended responses to potential violations. Information on facilities in impaired waters is accessible by entering permit ids in an OTIS Water Facility Search report and selecting Category 4 and 5 Impaired from the Water Quality Criteria dropdown menu. For additional details on examining files in file selection lists in impaired waters, see instructions in Appendix E.

Reviewers should consider Administrative Penalty Orders (APOs) as formal enforcement actions under SRF file review metric 10b. APOs, as formal enforcement actions, are generally an appropriate response to non-SNC violations and violations at non-major facilities. Per the NPDES EMS policy, APOs are not appropriate to address SNC violations at major facilities because APOs generally do not contain injunctive relief provisions. An APO at a major facility may be appropriate if the file reviewed shows documentation of return to compliance. In addition, there are some types of violations that could occur at non-majors, such as reporting false information, for which an APO is not sufficient. Refer to the Enforcement Response Guide in the EMS if you have questions about whether the response is appropriate.

**Applicable EPA policy/guidance:** [\*The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)\*](#), 1989; [\*Memo“Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations”\*](#) from Mark Pollins, Director, Water Enforcement Division and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008; [\*Chapter7ofthe Enforcement Management System, Quarterly Noncompliance Report Guidance\*](#); [\*Guidance for Preparation of Quarterly and Semi-Annual Noncompliance Reports\*](#) (40 CFR 123.45); [\*National Pollutant Discharge Elimination System Enforcement Management System \(NPDES EMS\)\*](#), Chapter 7, [\*Quarterly Noncompliance Report Guidance\*](#); [\*Revision of NPDES Significant Noncompliance \(SNC\) Criteria to Address Violations of Non-Monthly Average Limits\*](#) issued to Water Management Division Directions and Regional Counsels from Steven A. Herman, 1995; [\*Interim Significant Non- Compliance Policy for Clean Water Act Violations Associated with CSOs, SSOs, CAFOs, and Storm Water Point Sources \(Interim Wet Weather SNC Policy\)\*](#) issued to EPA Regions only on October 23, 2007.

## Element 5 — Penalties

Element 5 evaluates penalty documentation using three metrics — 11a for gravity and economic benefit, 12a for difference between initial and final penalty, and 12b for collection. Reviewers can gauge the level of penalty activity in the year reviewed through the [CWA Dashboard](#) which provides information on the number and dollar value of penalties. Note that the Dashboard may not include all state penalty actions against non-major facilities, general permittees, and unpermitted facilities. While states are asked to verify the accuracy and completeness of data utilized for the state dashboards, states are not required to report this data to ICIS-NPDES. In some states, the majority of the penalty actions may not be entered in ICIS. Regions may also want to ask states to provide total penalty dollars.

### File Reviews

As part of file reviews, regions should review files for wet weather, significant industrial user, and pretreatment facilities that the state inspected in accordance with its NPDES CMS plan, along with those for NPDES major facilities, to ensure that penalties at these facilities are well documented. If penalty actions appear low in terms of the number of penalty actions taken when compared to enforcement actions taken and violations reported, this should be noted in the narrative for Element 5 with appropriate areas for improvement identified. As part of the review of regional files selection lists, EPA will review the representativeness of files selected to ensure NPDES CMS commitments are adequately factored into the review process.

**Key metrics:** 11a, 12a, and 12b.

### Metric 11a — Penalty calculations reviewed that document and include gravity and economic benefit

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** Percentage of penalty calculations reviewed that document and include, where appropriate, gravity and economic benefit. The numerator = the number of penalties reviewed where the penalty was appropriately calculated and documented; the denominator = the total number of penalties reviewed.

**Guidance:** Agencies should document penalties sought, including the calculation of gravity and economic benefit where appropriate. With regard to this documentation, the Revisions to the Policy Framework for State/EPA Enforcement Agreements (1993) says the following:

EPA asks that a State or local agency make case records available to EPA upon request and during an EPA audit of State performance. All recordkeeping and reporting should meet the requirements of the quality assurance management policy and follow procedures established by each national program consistent with the Agency's Monitoring Policy and Quality Assurance Management System. . .

State and local recordkeeping should include documentation of the penalty sought, including the calculation of economic benefit where appropriate. It is important that accurate and complete documentation of economic benefit calculations be maintained to support defensibility in court, enhance Agency's negotiating posture, and lead to greater consistency.

Agencies may use their own penalty policies and either EPA's computerized model, known as

BEN, or their own method to calculate economic benefit consistent with national policy.

Review the files containing enforcement responses with penalties and examine whether the gravity and economic benefit components were documented (sometimes found in a penalty calculation worksheet). If the penalty does not include an economic benefit or gravity calculation, the reviewer should determine if the file documents the reason for the absence, such as one of the mitigation factors listed in the policy.

**Applicable EPA policy/guidance:** [\*Interim Clean Water Act Settlement Penalty Policy\*](#), March 1, 1995; [\*Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements\*](#) (1993); [\*Revised Policy Framework for State/EPA Enforcement Agreements\*](#) (1986).

### **Metric 12a — Documentation of rationale for difference between initial penalty calculation and final penalty**

**Metric type:** File Review, Goal

**Goal:** 100%

**What it measures:** Percentage of penalties reviewed that document the rationale for the final value assessed when it is lower than the initial calculated value. The numerator = number of penalties reviewed that document the rationale for the final value assessed compared to the initial value calculated; denominator = number of penalties reviewed where final value assessed is lower than initial value calculated.

**Guidance:** According to the *Revisions to the Policy Framework for State/EPA Enforcement Agreements* (1993), states should document any adjustments to the initial penalty including a justification for any differences between the initial and final assessed penalty. Review penalty files to identify their contents with respect to initial and final penalties. If only one of the two penalty amounts is found in the file, ask the agency why the initial and final assessed penalties are not both documented, along with the rationale for any differences.

**Applicable EPA guidance/policy:** [\*Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements\*](#) (1993), [\*Revised Policy Framework for State/EPA Enforcement Agreements\*](#) (1986); [\*Interim Clean Water Act Settlement Penalty Policy\*](#), March 1, 1995.

### **Metric 12b — Penalties collected**

**Metric type:** File, Goal

**Goal:** 100% of files with documentation of penalty collection

**What it measures:** Percentage of penalty files reviewed that document collection of penalty. The numerator = the number of penalties with documentation of collection or measure, or documentation of measures to collect a delinquent penalty; denominator = the number of penalties reviewed for which penalty payment was due by the time of the review.

**Guidance:** This metric assesses whether the final penalty was collected. Begin by looking in the file for a cancelled check or other correspondence documenting transmittal of the check. If this

documentation is not in the file, ask the agency if they can provide proof of collection through the data system of record.

If the penalty has not been collected, there should be documentation either in the file or in the data system of record that the agency has taken appropriate follow-up measures.

**Applicable EPA policy/guidance:** [\*Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements\*](#) (1993), [\*Revised Policy Framework for State/EPA Enforcement Agreements\*](#) (1986); [\*Interim Clean Water Act Settlement Penalty Policy\*](#), March 1, 1995.

## **Exit Interview**

During the exit interview regions should evaluate progress toward the annual CMS commitments, along with other findings, and discuss the state's strategy for meeting multi-year commitments. This should, in turn, inform annual planning discussions with states to ensure CMS goals for all sources, including pretreatment and wet weather, are appropriately considered in a manner that will lead states on a path to meet multi-year goals.

## Appendix A: Acronyms

Note: This is not a complete list of acronyms used in this document. It includes only those acronyms that are not frequently used in the Agency lexicon, or which have multiple meanings in the Agency lexicon.

<b>CMS</b>	Compliance Monitoring Strategy. When the reference is to the National CMS, the reference is to Source 9, below.
<b>EMS</b>	Enforcement Management System. In this document, EMS ALWAYS means Enforcement Management System. Elsewhere in the Agency, the acronym refers to an Environmental Management System, however, that term is not used in this document or the State Review Framework.
<b>FFY</b>	Federal Fiscal Year (October 1 through September 30)
<b>SRF</b>	State Review Framework. In this document, SRF ALWAYS refers to the State Review Framework.
<b>SRF Tracker</b>	The Tracker is an on-line database on the OTIS SRF website. The SRF Tracker contains records of individual agency reviews and includes a system to track agency progress in completing recommendations stemming from the SRF reviews.

## Appendix B: Information Sources

The following documents referenced in the metric discussions above are available electronically at: [http://www.epa-otis.gov/otis/guidance\\_policy\\_data.html](http://www.epa-otis.gov/otis/guidance_policy_data.html)

1. [\*The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)\*](#), 1989
2. [\*MemoClarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations\*](#) from Mark Pollins, Director, Water Enforcement Division, and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008
3. [\*Policy Framework for State/EPA Agreements\*](#), August 1986, as revised
4. [\*Permit Compliance System \(PCS\) Policy Statement\*](#), August 31, 1985, as amended in 2000.
5. [\*MemoICIS Addendum to the Appendix of the 1985 PCS Policy Statement\*](#) from Michael M Stahl, Director, Office of Compliance and James A Hanlon, Director, Office of Wastewater Management, December 7, 2007
6. [\*Final Single Event Violation Data Entry Guide for the Permit Compliance System \(PCS\)\*](#), May 22, 2006.
7. Chapter 7 of the [\*Enforcement Management System, Quarterly Noncompliance Report Guidance; Guidance for Preparation of Quarterly and Semi-Annual Noncompliance Reports\*](#) (40 CFR 123.45) (this document is also included as an attachment to Source 1)
8. [\*Revised Interim Clean Water Act Settlement Penalty Policy\*](#), March 1, 1995.
9. Memorandum. Clean Water Act [\*National Pollutant Discharge Elimination System Compliance Monitoring Strategy for the Core Program and Wet Weather Sources\*](#) from Granta Y. Nakayama, Assistant Administrator, October 17, 2007.
10. Memorandum, The Office of Enforcement and Compliance Assurance's Agency Response to the Evaluation Report: Better Enforcement Oversight Needed for Major Facilities with Water Discharge Permits in Long-term Significant Noncompliance ([ReportNo.2007-P-00023](#)) from Granta Y Nakayama, Assistant Administrator, Aug 14, 2007.
11. Memorandum, [\*Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements\*](#), from Steven A. Herman, Assistant Administrator, June 23, 1993 (this document contains an amendment to source 3)
12. [\*PCS Quality Assurance Guidance Manual\*](#), August 28, 1992

13. The Code of Federal Regulations including [40CFR123.26\(e\)](#), [40CFR123.26\(e\)\(5\)](#) and [40CFR123.45c](#).
14. [Clean Water Act Action Plan](#) (Prior to February 22, 2010 known as the Clean Water Act Enforcement Action Plan), October 15, 2009.
15. [Interim Significant Non-compliance Policy for Clean Water Act Violations Associated with CSOs, SSOs, CAFOs, and Storm Water Point Sources \(WW SNC Policy\)](#), issued to EPA Regions only on October 23, 2007.

## References (also see SRF Compendium of Guidance and Policy Documents)

- Clean Water Act Civil Enforcement Policy and Guidance site:  
<http://cfpub.epa.gov/compliance/resources/policies/civil/cwa/>
- Online Tracking Information System (OTIS) Guidance, Policy, and Minimum Data Requirements:  
[http://www.epa-otis.gov/otis/guidance\\_policy\\_data.html](http://www.epa-otis.gov/otis/guidance_policy_data.html)
- EPA's Enforcement and Compliance History Online (ECHO) and Annual Noncompliance Report (ANCR):  
<http://www.epa-echo.gov/echo/>  
<http://www.epa-echo.gov/echo/ancr/us/>

## VI. Key Contacts

### State Review Framework Round 3 Implementation Process & Guidance:

- Christopher Knopes, Performance Measures and Oversight Division Director:  
202-564-2337, [Knopes.Christopher@epa.gov](mailto:Knopes.Christopher@epa.gov)

### Development & Use of NPDES CMS Data in Specific State Reports by Region:

- Region 1, 2, 3, 10 SRF liaison: Greg Siedschlag, 202-564-0650  
[Siedschlag.Gregory@epa.gov](mailto:Siedschlag.Gregory@epa.gov)
- Region 5, 6, 8, 9 SRF liaison: Elizabeth Walsh, 202-564-0115, [Walsh.Elizabeth@epa.gov](mailto:Walsh.Elizabeth@epa.gov)
- Region 4, 7 SRF liaison: Chad Carbone, 202-564-2523, [Carbone.Chad@epa.gov](mailto:Carbone.Chad@epa.gov)

### Technical Assistance on the Methods Used to Pull NPDES CMS metrics from ICIS:

- Carey Johnston, Enforcement Targeting and Data Division, 202-566-1014,  
[Johnston.Carey@epa.gov](mailto:Johnston.Carey@epa.gov)

### Clean Water Act Action Plan:

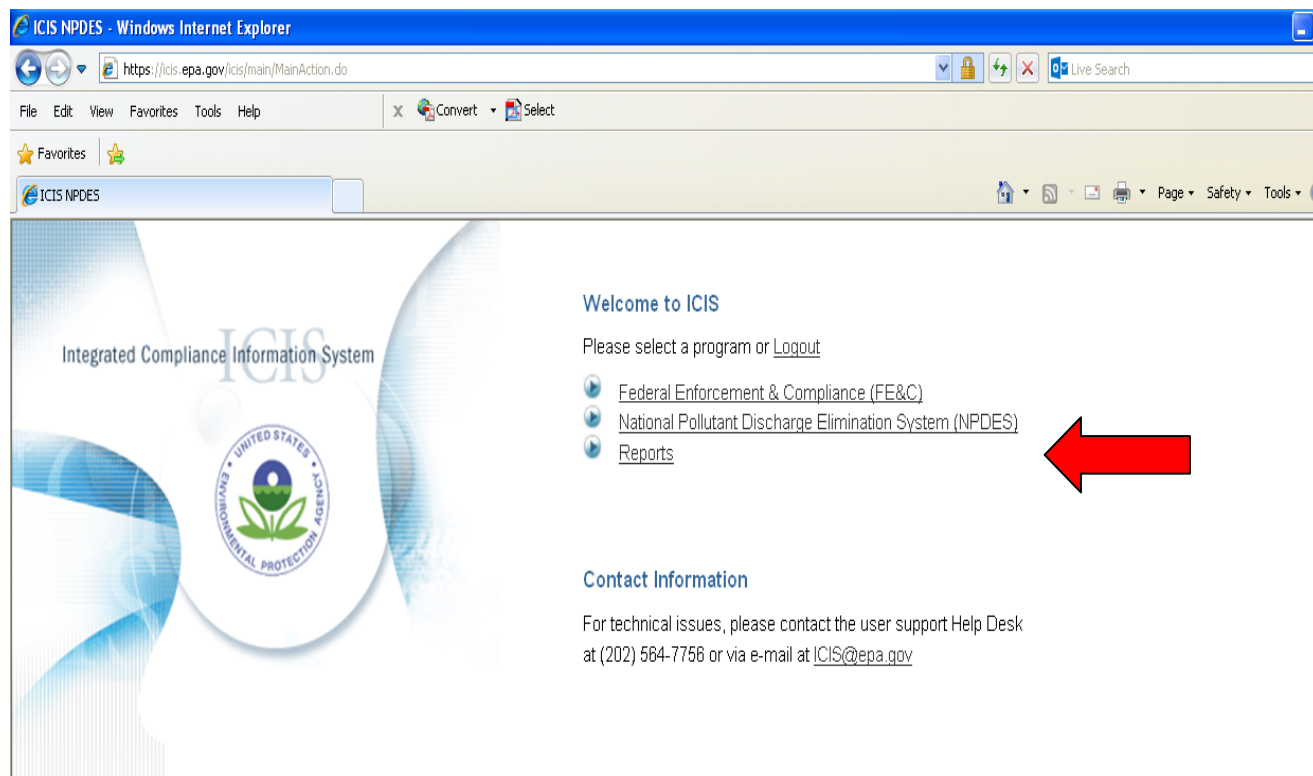
- Chad Carbone: 202-564-2523, [Carbone.Chad@epa.gov](mailto:Carbone.Chad@epa.gov)

**Clean Water Act Compliance Monitoring Strategy & CMS Plans:**

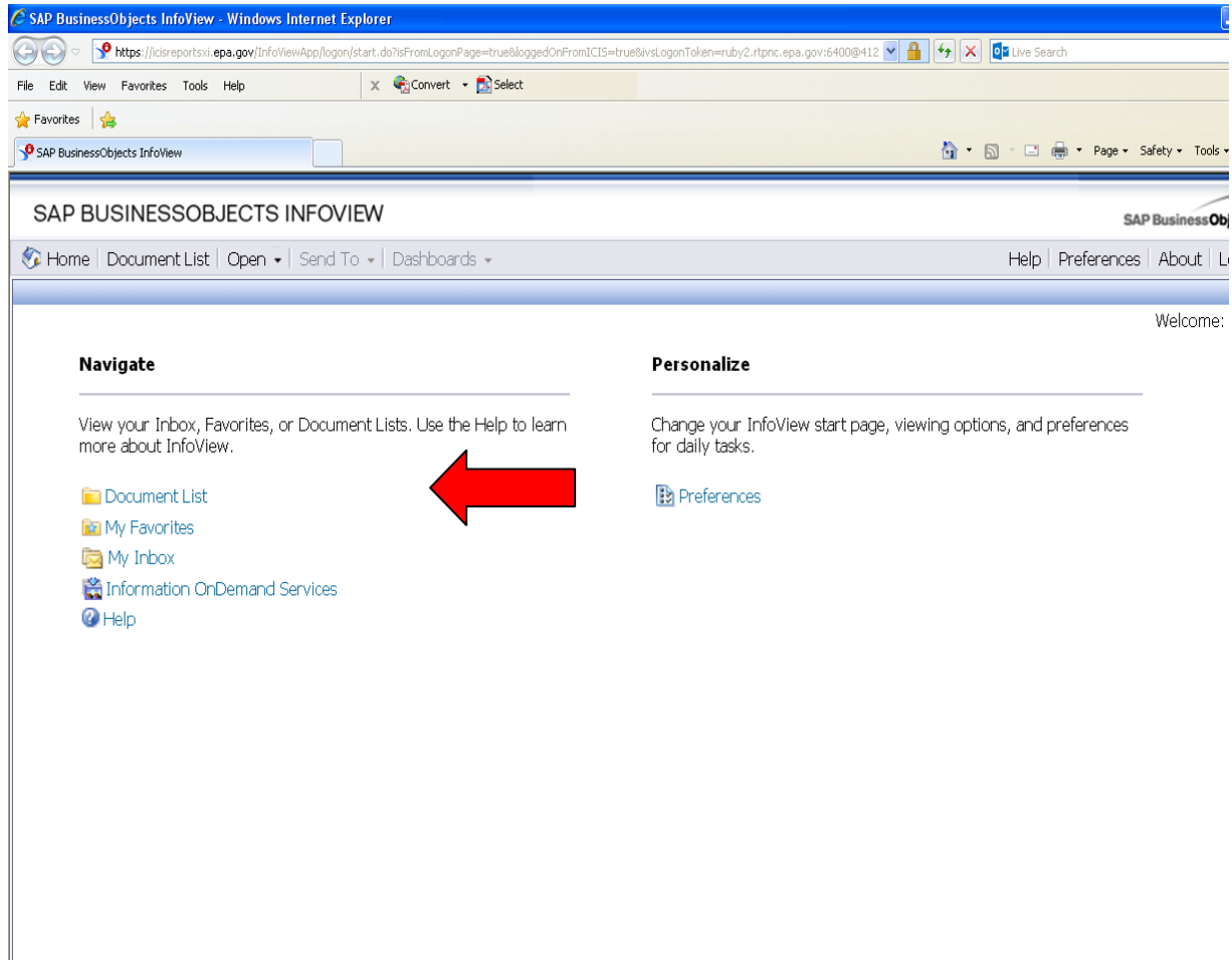
- Rebecca Roose, Monitoring, Assistance, and Media Programs Division, Water Branch:  
202-566-1387, [Roose.Rebecca@epa.gov](mailto:Roose.Rebecca@epa.gov)
- Martha Segall, Monitoring, Assistance, and Media Programs Division, Water Branch Chief:  
202-564-0723, [Segall.Martha@epa.gov](mailto:Segall.Martha@epa.gov)

**Appendix C: Instructions for Obtaining Inspection Coverage, Universe, Violation, Enforcement Action, and Penalty Information for Element 2 table on Non-major Facility Data:** Regions have the flexibility to obtain information directly from the state to fill in the table that appears in Appendix D, or to do initial analysis in ICIS and send the information to the state for review. If the data is not in ICIS-NPDES, the region is expected to request the data from the state. Instructions for accessing information available in ICIS for the table on Non-major Facility Data appear below.

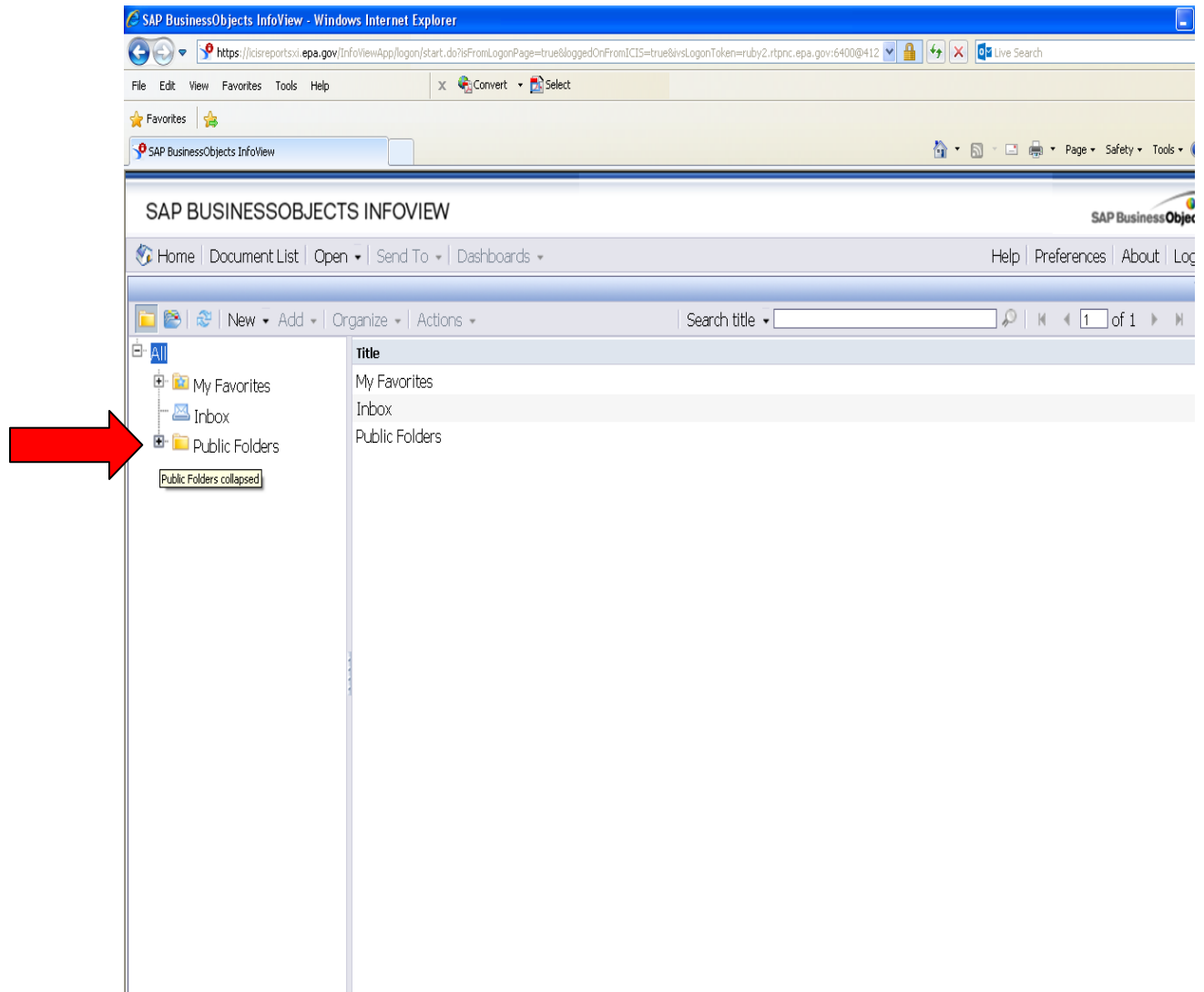
- 1.) Download ICIS-NPDES standard reports for each CMS commitment universe beginning by logging into ICIS on the following web site: <https://icis.epa.gov/icis/jsp/common/LoginBody.jsp>.
- 2.) Next, select the link for ICIS NPDES.
- 3.) Select the link for “Reports” as shown in the screenshot below:



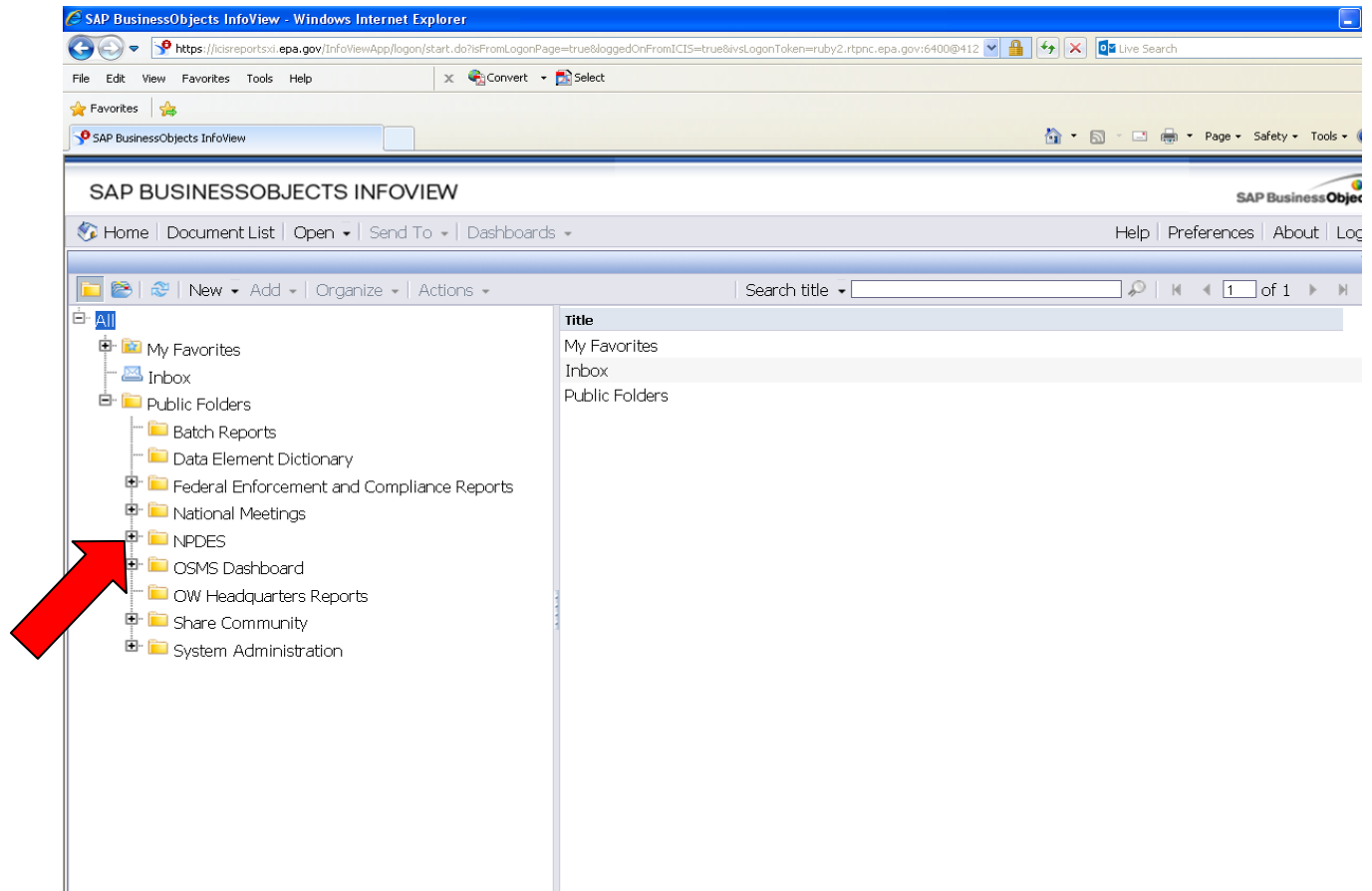
4.) Select the link entitled “Document List” as shown in the screenshot below:



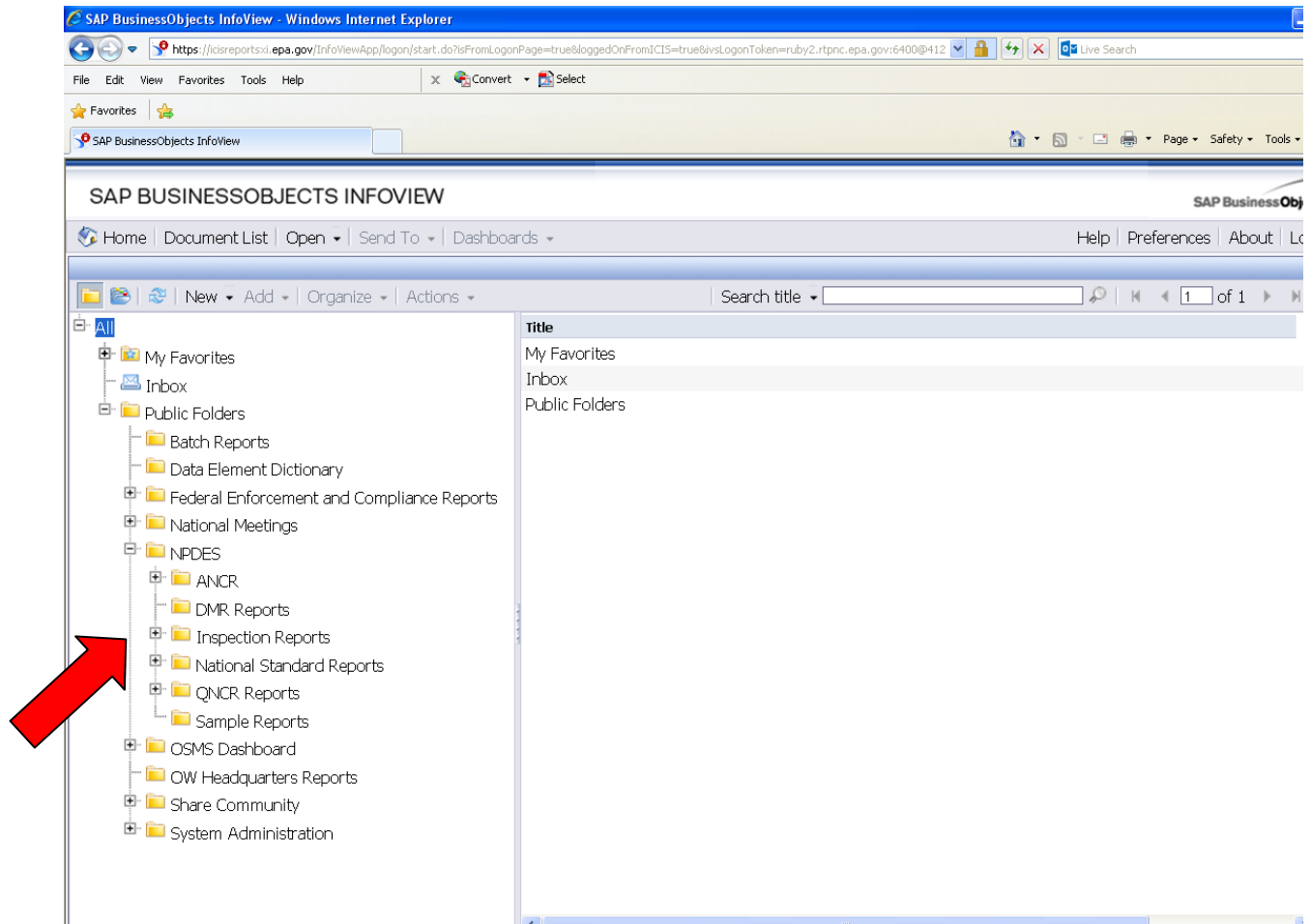
5. Click on the “+” sign next to the word “Public Folders” to open the options for ICIS-NPDES reports as shown in the screenshot below:



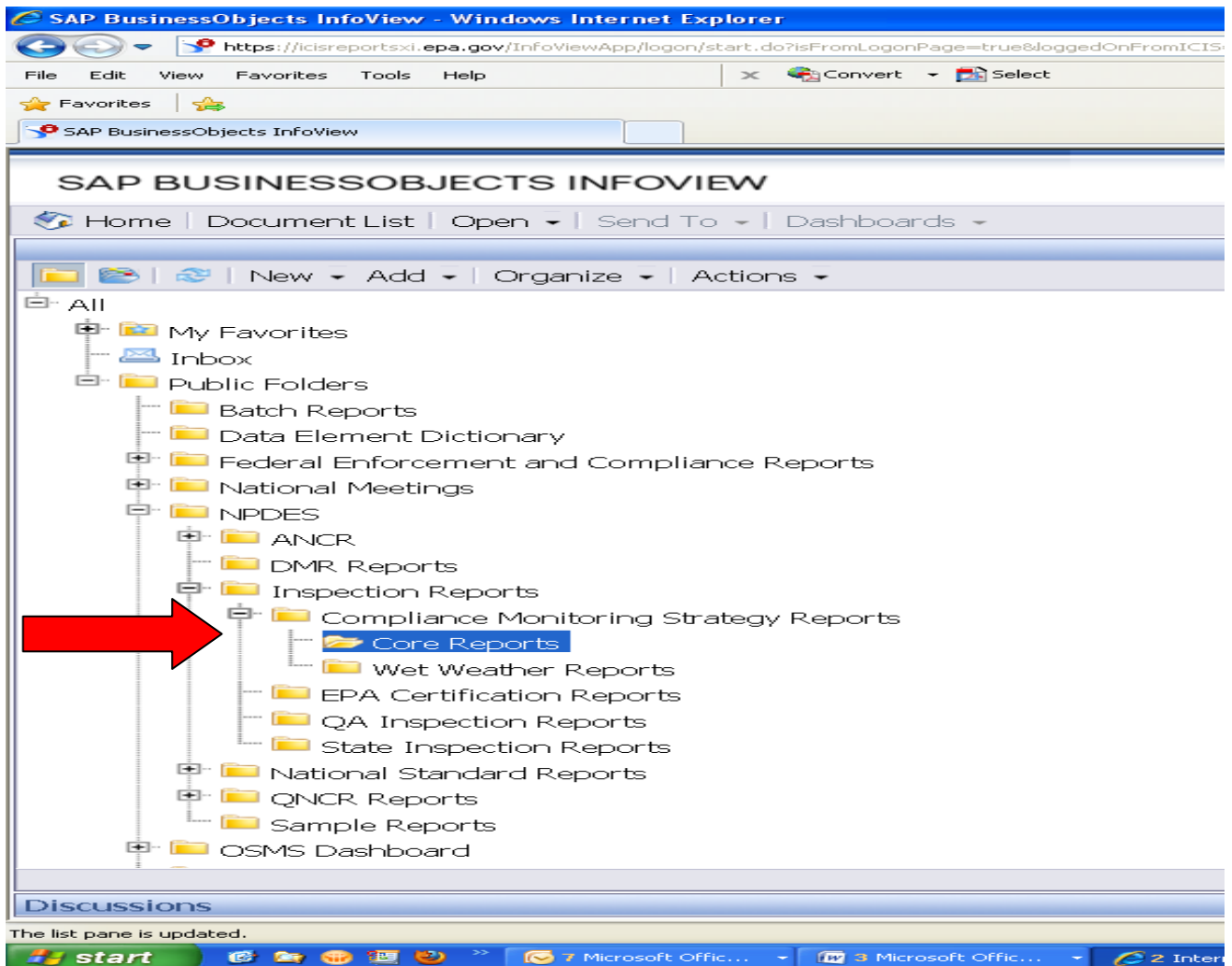
- Click on the “+” sign next to the word “NPDES” to open the options for ICIS-NPDES reports as shown in the screenshot below:



7. Click on the “+” sign next to “Inspection Reports” reports in NPDES report options as shown in the screenshot below:



8. Click on the link for “Core Reports” to obtain information on inspections conducted and the universe for pretreatment facilities and significant industrial users (SIUs). Alternatively, click on the link for “Wet Weather” to access information on combined sewer overflow, sanitary sewer overflow, stormwater, and CAFO universe inspections conducted. For example, to obtain information for the pretreatment inspections conducted and universe, click on the link for Compliance Monitoring “Core Reports” as shown in the screenshot below.



9. Double click on the report 1.C.1 Pretreatment Audits to obtain information on the number of pretreatment inspections conducted and the pretreatment facility universe.

The screenshot shows the SAP BusinessObjects InfoView interface in a Windows Internet Explorer browser. The left pane displays a tree view of folders, including 'NPDES', 'ANCER', 'DMR Reports', 'Inspection Reports', 'Compliance Monitoring Strategy Reports', 'Core Reports', 'Wet Weather Reports', 'EPA Certification Reports', 'QA Inspection Reports', 'State Inspection Reports', 'National Standard Reports', 'QNCR Reports', 'Sample Reports', and 'OSMS Dashboard'. The right pane shows a list of reports with columns: Title, Last Run, Type, and Owner. The report 'Pretreatment Audits - CMS 1.C.1' is highlighted in blue.

Title	Last Run	Type	Owner
"Traditional" minor perm (d) list of impaired waters			
Oversight Inspections - CMS 1.D. version 1.0 Oversight Insp		Web Intelligence	Administrator
Pretreatment Audits - CMS 1.C.1. version 1.2 removed 6 res -25- 12 version 1.1 Pretreatme Pretreatment Audits. For -9-12.		Web Intelligence	Administrator
Pretreatment Compliance CMS 1.C.2. version 1.2 removed 6 res -25- 12 version 1.1 Pretreatme Pretreatment Compliance -9-12.		Web Intelligence	Administrator
Significant Industrial User CMS 1.C.3. version 1.2 removed 6 res -25- 12 version 1.1 Pretreatme Significant Industrial User -9-12.		Web Intelligence	Administrator

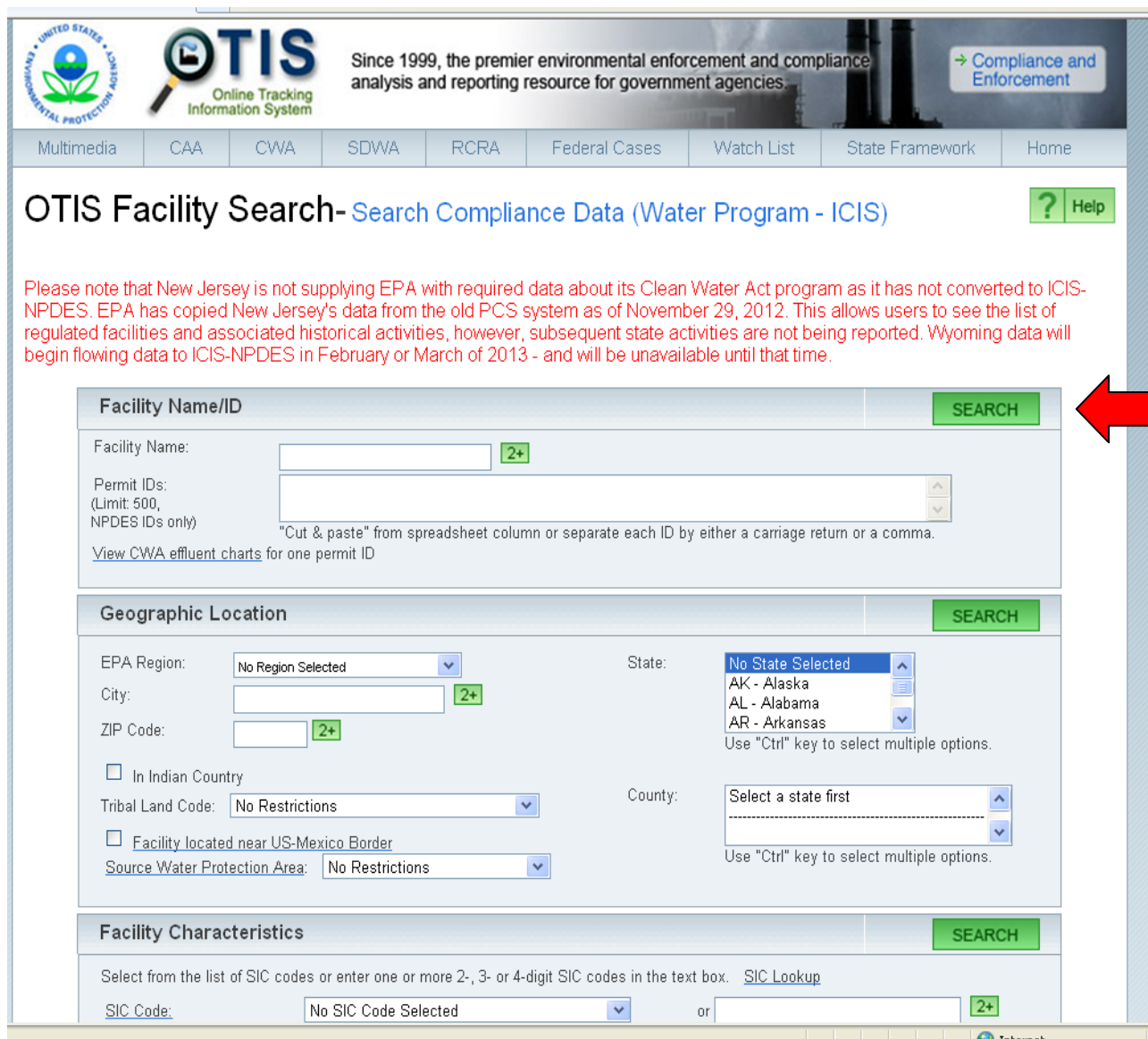
10. Enter the region number, start date (the beginning of the fiscal year reviewed on October 1) and end date (the end of the fiscal year reviewed on September 30), and click Run query. The report will display a summary of region-wide activities occurring in the pretreatment universe, provide a separate tab with facility specific information on pretreatment inspections conducted, and a separate tab for the pretreatment universe.

11. Save this report to your computer by clicking on the icon that appears to be a floppy disk, then click the “Save” button

12. Repeat these steps 1-10 above for the 1.C.2 Pretreatment Inspections, 1.C.3 Significant Industrial User Inspections, and Compliance Monitoring Wet Weather Reports 2.A Combined Sewer Systems CMS, 2.B Sanitary Sewer Systems CMS, 2.C.1.a Stormwater MS4 Phase 1 Audits CMS, 2.C.1.b Storm Water MS4 Phase I Inspections CMS, 2.C.1.c Storm Water MS4 Phase II Audits and Inspections, 2.C.2 Storm Water Industrial, 2.C.3.a Construction – Phase I (greater than 5 acres CMS, 2.C.3.b Construction –Phase II (1 to 5 acres) CMS, 2.D.1 CAFOs – Large and Medium CAFOs with NPDES permits, and 2.D.2 NDR CAFOs – Large CAFOs without NPDES Permits).

13. After downloading each report listed above, use the information in the Universe tab of each report to search for violations, informal actions, formal actions, and penalties in the OTIS Water Facility Search query screen on the following web site to fill in the remaining columns of the table that appears in Appendix D: [http://www.epa-otis.gov/otis/icis\\_npdes\\_query.html](http://www.epa-otis.gov/otis/icis_npdes_query.html).

14. Enter the permit ids from the universe tab of any ICIS Compliance Monitoring Core Report or Wet Weather report in the Permit ID field of OTIS Water Facility Search section on Facility ID/Permit as shown in the screenshot below:



**OTIS Facility Search- Search Compliance Data (Water Program - ICIS)** [? Help](#)

Please note that New Jersey is not supplying EPA with required data about its Clean Water Act program as it has not converted to ICIS-NPDES. EPA has copied New Jersey's data from the old PCS system as of November 29, 2012. This allows users to see the list of regulated facilities and associated historical activities, however, subsequent state activities are not being reported. Wyoming data will begin flowing data to ICIS-NPDES in February or March of 2013 - and will be unavailable until that time.

**Facility Name/ID** **SEARCH**

Facility Name:  **2+**

Permit IDs:  **2+**  
(Limit: 500, NPDES IDs only)  
"Cut & paste" from spreadsheet column or separate each ID by either a carriage return or a comma.  
[View CWA effluent charts](#) for one permit ID

**Geographic Location** **SEARCH**

EPA Region:  No Region Selected State:  No State Selected  
City:  **2+**  AK - Alaska  
ZIP Code:  **2+**  AL - Alabama  
☐ In Indian Country  AR - Arkansas  
Tribal Land Code:  No Restrictions County:  Select a state first  
☐ Facility located near US-Mexico Border  
Source Water Protection Area:  No Restrictions  
Use "Ctrl" key to select multiple options.





















**Facility Characteristics** **SEARCH**

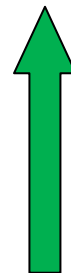
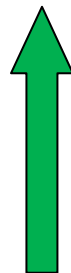
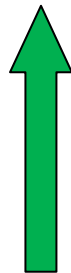
Select from the list of SIC codes or enter one or more 2-, 3- or 4-digit SIC codes in the text box. [SIC Lookup](#)

SIC Code:  No SIC Code Selected or  **2+**

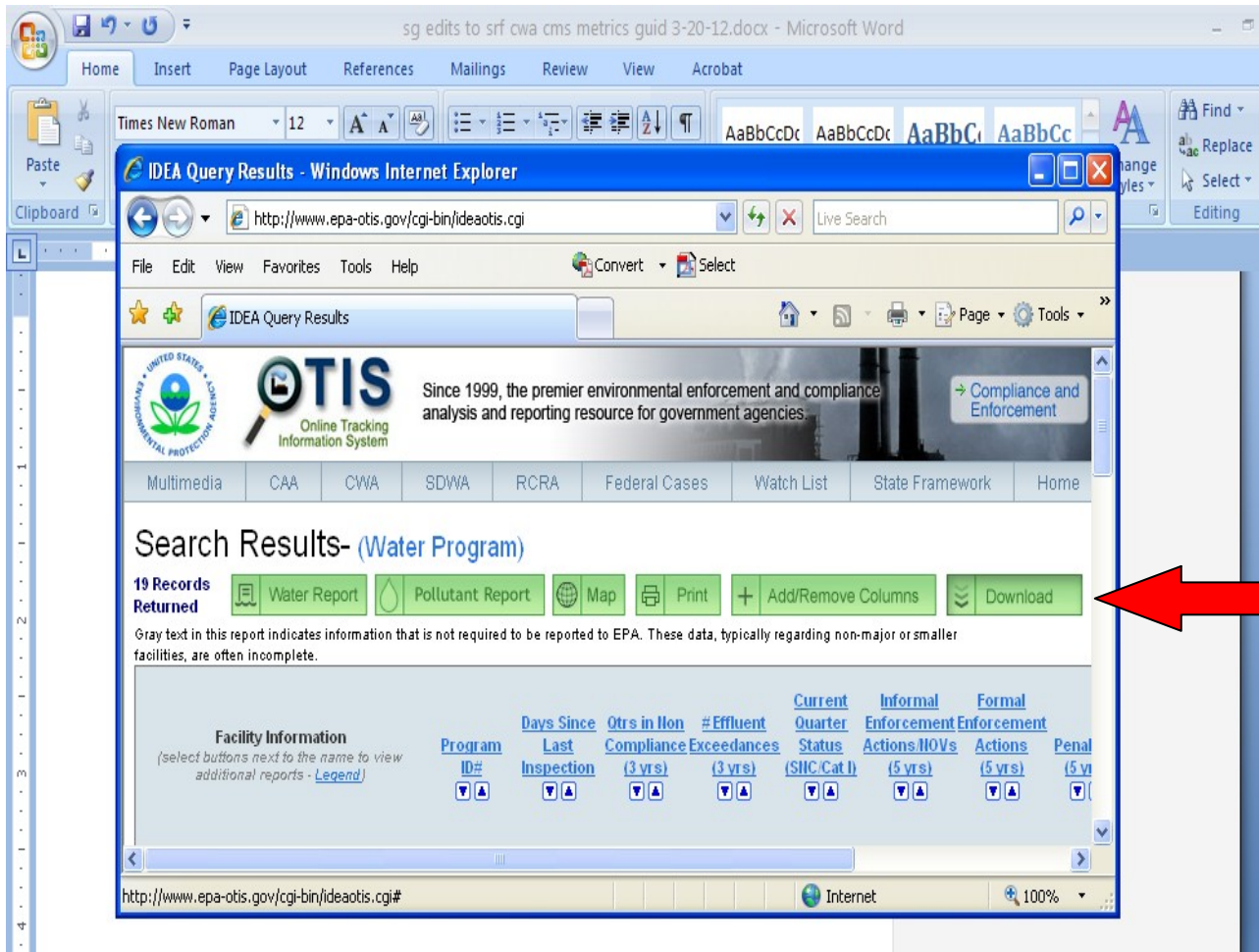
- 15.) Press "Search."

- 16.) The search results screen provides quarters in noncompliance, formal enforcement actions, and penalties in separate columns.

Facility Information (select buttons next to the name to view additional reports - <a href="#">Legend</a> )	Program ID#	Days Since Last Inspection	Qtrs in Non Compliance (3 yrs)	# Effluent Exceedances (3 yrs)	Current Quarter Status (SNC/Cat I)	Informal Enforcement Actions/NOVs (5 yrs)	Formal Enforcement Actions (5 yrs)	Penalties (5 yrs)	TRI Releases to Water (lbs)	Percent Minority (3 mile radius)	Population Density (pop/mi <sup>2</sup> ) (3 mile radius)
		 	 	 	 	 	 	 	 	 	 
Facility X	XX0123456	1200	12	0		2	1	\$150,000			



- 17.) Click the green “Download” button and select the “Download Results Excel” option from the dropdown menu to download information from the OTIS report directly into an Excel spreadsheet; comma delimited files may also be downloaded by selecting the option for Download Results Text (csv).



Note: If there are a limited number of facilities in a given state, it is possible to manually add the total number of facility quarters in noncompliance, the total number of facilities with a formal enforcement action, and the total number of facilities with a penalty. However, for larger data sets, download results from OTIS into an excel spreadsheet and sum results from the following columns to ensure accurate results:

- the number of quarters in noncompliance for each facility,
- the number of facilities with a informal or formal enforcement action, and
- the number of facilities with a penalty (indicate number of penalties and dollar amount).

After compiling all of the information on violations (SEVs and electronically reported violations), enforcement actions, and penalties, the reviewer will add the total results into the relevant columns in the Non-major Facility Data table. If data is not in ICIS- NPDES, the Region will need to request data from the state.

# Appendix D: Non-major Facility Data Table

CWA-NPDES CMS Metrics [Insert State Name, FY for Data in Table, and Date of SRF Review]								
Metric Number	Metric Text	Description (based on NPDES CMS target)	Universe	CMS Commitments	Inspections Conducted	Violations Found	Enforcement Actions Taken	Penalties Assessed
4a1	Pretreatment compliance inspections and audits	Every five years, two pretreatment compliance inspections and one audit at each approved local pretreatment programs						
4a2	Significant industrial user (SIU) inspections for SIUs discharging to non-authorized POTWs	One pretreatment inspection at each SIU annually						
4a4	Major CSO inspections	One inspection of each CSO every three years (for states with combined sewer systems)						
4a5	SSO inspections	SSO inspections scheduled as needed, based on information about overflow occurrences received directly by EPA						
4a7	Phase I & II MS4 audits or inspections	One audit of each Phase I MS4 by Oct. 2012 and one every five years thereafter*; Inspections as needed†; One inspection or audit of each Phase II MS4 by Oct. 2014 and one every five years thereafter*						

CWA-NPDES CMS Metrics [Insert State Name, FY for Data in Table, and Date of SRF Review]								
Metric Number	Metric Text	Description (based on NPDES CMS target)	Universe	CMS Commitments	Inspections Conducted	Violations Found	Enforcement Actions Taken	Penalties Assessed
4a8	Industrial stormwater inspections	Inspections of 10% of the industrial stormwater universe each year						
4a9	Phase I and II construction stormwater inspections	Inspections of 10% of Phase I and 5% of Phase II construction stormwater universes each year						
4a10	Inspections of large and medium NPDES CAFOs	One inspection of each large and medium NPDES-permitted CAFO every five years						

\*For Phase I and Phase II MS4s, after the initial audit or inspection conducted within five or seven years of the NPDES CMS

issuance, respectively, the goal is for the state to conduct another audit or inspection within the following timeframes:

If initial audit/inspection leads to determination of . . .	Then another audit/inspection should be conducted within . . .
Full compliance or only minor violations	Five years
Violation(s) requiring enforcement order	One year

## Appendix E: Identifying Impaired Waters in File Selection Lists

- 1.) After randomly selecting files based on the File Selection Protocol guidance document, enter permit ids in files selected into the Water Facility Search Report on the following web site: [http://www.epa-otis.gov/otis/icis\\_npdes\\_query.html](http://www.epa-otis.gov/otis/icis_npdes_query.html).

Search Compliance Data (Water Program - ICIS) | EPA Online Tracking Information System (OTIS) - Windows Internet Explorer

http://www.epa-otis.gov/otis/icis\_npdes\_query.html

File Edit View Favorites Tools Help

Search Compliance Data (Water Program - ICIS) | EP...

**OTIS** Online Tracking Information System

Since 1999, the premier environmental enforcement and compliance analysis and reporting resource for government agencies

Compliance and Enforcement

Multimedia CAA CWA SDWA RCRA Federal Cases Watch List State Framework Home

### OTIS Facility Search- Search Compliance Data (Water Program - ICIS)

? Help

Please note that New Jersey is not supplying EPA with required data about its Clean Water Act program as it has not converted to ICIS-NPDES. EPA has copied New Jersey's data from the old PCS system as of November 29, 2012. This allows users to see the list of regulated facilities and associated historical activities, however, subsequent state activities are not being reported. Wyoming data will begin flowing data to ICIS-NPDES in February or March of 2013 - and will be unavailable until that time.

**Facility Name/ID** **SEARCH**

Facility Name:  2+

Permit IDs:  2+  
(Limit: 500, NPDES IDs only)

"Cut & paste" from spreadsheet column or separate each ID by either a carriage return or a comma.  
[View CWA effluent charts](#) for one permit ID

**Geographic Location** **SEARCH**

EPA Region:  No Region Selected

City:  2+

ZIP Code:  2+

☐ In Indian Country

Tribal Land Code:  No Restrictions

☐ Facility located near US-Mexico Border

Source Water Protection Area:  No Restrictions

State:  No State Selected  
AK - Alaska  
AL - Alabama  
AR - Arkansas  
Use "Ctrl" key to select multiple options.

County:  Select a state first  
Use "Ctrl" key to select multiple options.

**Facility Characteristics** **SEARCH**

Select from the list of SIC codes or enter one or more 2-, 3- or 4-digit SIC codes in the text box. [SIC Lookup](#)

SIC Code:  No SIC Code Selected or  2+

- 2.) Enter the permit ids identified in the file selection listed into the Permit IDs field in the Facility Name/ID section of the Water Facility Search Report as shown in the screen shot below with permit ids AB100235 and AC909946.

Search Compliance Data (Water Program - ICIS) | EPA Online Tracking Information System (OTIS) - Windows Internet Explorer

http://www.epa-otis.gov/otis/icis\_npdes\_query.html

File Edit View Favorites Tools Help

Search Compliance Data (Water Program - ICIS) | EP...

**OTIS** Online Tracking Information System

Since 1999, the premier environmental enforcement and compliance analysis and reporting resource for government agencies

Compliance and Enforcement

Multimedia CAA CWA SDWA RCRA Federal Cases Watch List State Framework Home

## OTIS Facility Search- Search Compliance Data (Water Program - ICIS)

? Help

Please note that New Jersey is not supplying EPA with required data about its Clean Water Act program as it has not converted to ICIS-NPDES. EPA has copied New Jersey's data from the old PCS system as of November 29, 2012. This allows users to see the list of regulated facilities and associated historical activities, however, subsequent state activities are not being reported. Wyoming data will begin flowing data to ICIS-NPDES in February or March of 2013 - and will be unavailable until that time.

**Facility Name/ID** **SEARCH**

Facility Name:  2+

Permit IDs:  2+  
(Limit: 500, NPDES IDs only)  
AB100235  
AC909946  
"Cut & paste" from spreadsheet column or separate each ID by either a carriage return or a comma.  
[View CWA effluent charts](#) for one permit ID

**Geographic Location** **SEARCH**

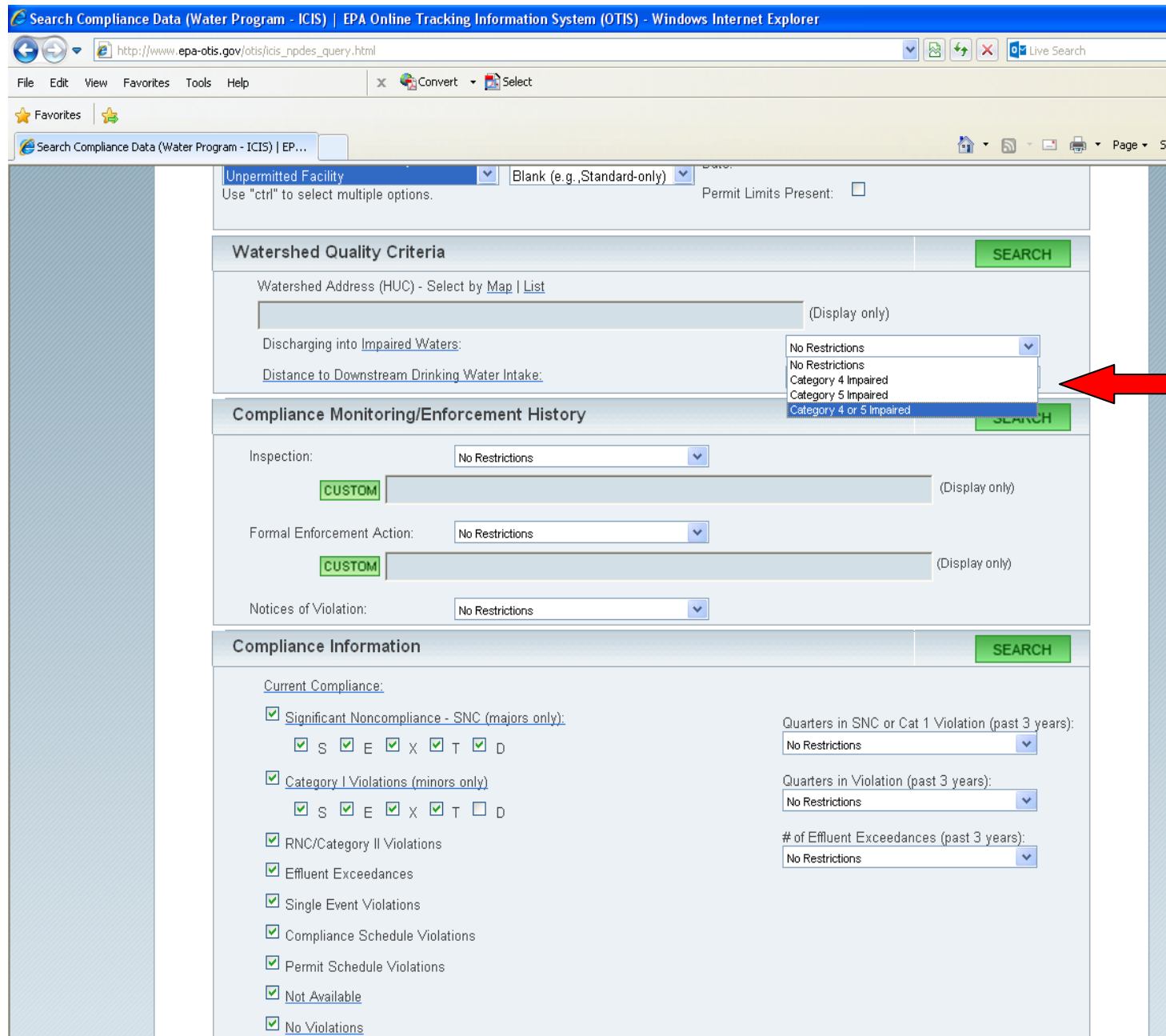
EPA Region:  No Region Selected State:  No State Selected  
City:  2+ AK - Alaska  
ZIP Code:  2+ AL - Alabama  
In Indian Country AR - Arkansas  
Tribal Land Code:  No Restrictions County:  Select a state first  
Facility located near US-Mexico Border  
Source Water Protection Area:  No Restrictions  
Use "Ctrl" key to select multiple options.

**Facility Characteristics** **SEARCH**

Select from the list of SIC codes or enter one or more 2-, 3- or 4-digit SIC codes in the text box. [SIC Lookup](#)

SIC Code:  No SIC Code Selected or  2+

3. Scroll down through the Water Facility Report query page to the Watershed Quality Criteria section and select “Category 4 or 5 Impaired” from the “Discharging to Impaired Waters” drop down menu as shown in the screenshot below.



The screenshot shows the EPA Online Tracking Information System (OTIS) interface in Windows Internet Explorer. The browser address bar displays the URL: [http://www.epa-otis.gov/otis/ncdes\\_query.html](http://www.epa-otis.gov/otis/ncdes_query.html). The page title is "Search Compliance Data (Water Program - ICIS) | EPA Online Tracking Information System (OTIS) - Windows Internet Explorer".

The main content area is divided into several sections:

- Unpermitted Facility:** Includes a dropdown menu for "Unpermitted Facility" and a checkbox for "Permit Limits Present".
- Watershed Quality Criteria:** Contains a "SEARCH" button and a "Watershed Address (HUC) - Select by Map | List" link. Below this is a "Discharging into Impaired Waters:" dropdown menu, which is currently open and showing the following options: "No Restrictions", "No Restrictions", "Category 4 Impaired", "Category 5 Impaired", and "Category 4 or 5 Impaired". A red arrow points to this dropdown menu.
- Compliance Monitoring/Enforcement History:** Includes a "SEARCH" button and several dropdown menus for "Inspection:", "Formal Enforcement Action:", and "Notices of Violation:", each with a "CUSTOM" button and a "(Display only)" link.
- Compliance Information:** Includes a "SEARCH" button and a "Current Compliance:" section with checkboxes for "Significant Noncompliance - SNC (majors only)", "Category I Violations (minors only)", "RNC/Category II Violations", "Effluent Exceedances", "Single Event Violations", "Compliance Schedule Violations", "Permit Schedule Violations", "Not Available", and "No Violations". To the right of these checkboxes are three dropdown menus for "Quarters in SNC or Cat 1 Violation (past 3 years)", "Quarters in Violation (past 3 years)", and "# of Effluent Exceedances (past 3 years)".

4. Click the “Search” button to run the Water Facility Search Report for impaired waters in the region’s file selection list.

The screenshot shows the EPA OTIS NPDES query interface in a Windows Internet Explorer browser. The address bar shows the URL: [http://www.epa-otis.gov/otis/icis\\_npdes\\_query.html](http://www.epa-otis.gov/otis/icis_npdes_query.html). The interface is divided into several sections, each with a "SEARCH" button. A red arrow points to the "SEARCH" button in the "Permit Information" section.

**Permit Information**

ICIS-NPDES Permit Type: **Any** (dropdown menu)  
 NPDES Individual Permit  
 General Permit Covered Facility  
 Unpermitted Facility  
 Use "ctrl" to select multiple options.

Permit Components: **SW - Industrial** (dropdown menu)  
 SW - Medium/Large MS4s  
 Storm Water Small MS4s  
 Blank (e.g., Standard-only)

Combined Sewer Systems: **No Restrictions** (dropdown menu)  
 Permit Expiration Date: **No Restrictions** (dropdown menu)  
 Permit Limits Present: ☐

**Watershed Quality Criteria**

Watershed Address (HUC) - Select by [Map](#) | [List](#)  
 (Display only)

Discharging into Impaired Waters: **Category 4 or 5 Impaired** (dropdown menu)  
 Distance to Downstream Drinking Water Intake: **No Restrictions** (dropdown menu)

**Compliance Monitoring/Enforcement History**

Inspection: **No Restrictions** (dropdown menu)  
**CUSTOM** (button) (Display only)

Formal Enforcement Action: **No Restrictions** (dropdown menu)  
**CUSTOM** (button) (Display only)

Notices of Violation: **No Restrictions** (dropdown menu)

**Compliance Information**

Current Compliance:  
☒ Significant Noncompliance - SNC (majors only):  
☒ S ☒ E ☒ X ☒ T ☒ D  
☒ Category I Violations (minors only):  
☒ S ☒ E ☒ X ☒ T ☐ D  
☒ RNC/Category II Violations

Quarters in SNC or Cat 1 Violation (past 3 years): **No Restrictions** (dropdown menu)  
 Quarters in Violation (past 3 years): **No Restrictions** (dropdown menu)  
 # of Effluent Exceedances (past 3 years):

5. Download the impaired waters search results to Excel for the file selection list by clicking on the green “Download” button at the top of the screen and select the “Download Results Excel” option from the drop down menu.

The screenshot shows the IDEA Query Results web application in a Windows Internet Explorer browser. The address bar shows the URL <http://www.epa-otis.gov/cgi-bin/ideaotis.cgi#>. The page title is "IDEA Query Results". The main content area displays "Search Results- (Water Program)" with "4 Records Returned". Below this, there are several buttons: "Water Report", "Pollutant Report", "Map", "Print", "Add/Remove Columns", "Download", "New Search", and "Help". The "Download" button is highlighted, and its dropdown menu is open, showing three options: "Download Results Text (csv)", "Download Results Excel", and "Download Effluent Data". A red arrow points to the "Download Results Excel" option. The background shows a table of search results with columns for Facility Information, Program, Days Since Last Inspection, Otrs in Non Compliance, # Effluent Exceedances, Current Quarter Status, Informal Enforcement Actions/NOV, and Population. The table is partially visible, showing data for a facility in the CWA program.

6. Run a basic Excel calculation to determine the percentage of files reviewed that are in impaired waters by using the total number of selected files identified in impaired waters as the numerator, divided by the total number of files selected for the denominator.
7. Compare this percentage value to the overall percentage of impaired waters listed for the state, state district, or local agency reviewed. Obtain the number of state-wide number of impaired waters by running a water facility search for impaired waters in the state selected for review with no particular permit ids selected using steps 1-6 discussed above.
8. Compare the percentage of impaired waters in the file selection list to the percentage of impaired waters in the state. If the values of impaired waters in the file selection list and state-wide impaired waters are significantly different, substitute additional files impaired waters using the downloaded state-wide impaired waters list to select files with compliance monitoring inspection, violation, and enforcement action activity.